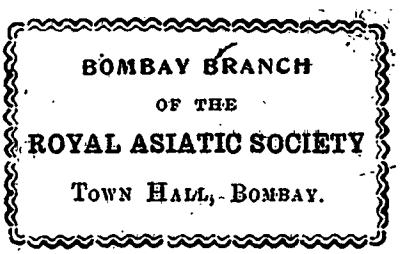
God
944
Yow/His
98331

00098331



Digitized with financial assistance from the
Government of Maharashtra
on 18 July, 2018

HISTORICAL SKETCH

OF

THE FRENCH BAR.

Edinburgh: Printed by Thomas Constable,

FOR

EDMONSTON AND DOUGLAS.

LONDON . . . . . HAMILTON, ADAMS, AND CO.

CAMBRIDGE . . . . . MACMILLAN AND CO.

GLASGOW . . . . . JAMES MACLEHOSE.

AN HISTORICAL SKETCH

OF

THE FRENCH BAR

FROM ITS ORIGIN TO THE PRESENT DAY;

WITH BIOGRAPHICAL NOTICES OF SOME OF THE PRINCIPAL ADVOCATES OF THE NINETEENTH CENTURY.

88331

BY ARCHIBALD YOUNG,

ADVOCATE.

"Sous tous les régimes, il y a eu des avocats courageux qui ont mis de côté tout esprit de parti, pour ne montrer que l'esprit de Justice; que la crainte n'a pu intimider, que l'ambition n'a pu séduire; et qui ont mieux aimé se mettre en opposition avec la faveur, qu'en opposition avec leur devoir."—*M. Dupin.*

EDINBURGH:

EDMONSTON AND DOUGLAS.

1869.

00098331

DEDICATED

TO

EDWARD STRATHEARN GORDON, Esq., Q.C.

AS A SLIGHT TRIBUTE OF RESPECT

FOR HIS PRIVATE CHARACTER

PROFESSIONAL ATTAINMENTS AND PUBLIC SERVICES.

***

PREFACE.

THE French Bar was some time ago selected by the author of the following pages as the subject of a series of papers, which have already appeared in the *Journal of Jurisprudence*. But it was found to be difficult to give even a satisfactory sketch of a history so extensive and important within the narrow limits afforded by a Journal principally devoted to matters of a more strictly technical and local nature; and it also appeared to the author that his subject was possessed of sufficient interest to warrant publication in a separate and more extended form. It may, perhaps, be thought that too great a space is devoted to the history of the French Bar during the nineteenth century. But for this there are good reasons; as that Bar has undergone greater changes, has produced greater men, and has played a more important part in the judicial and political arena during the ninteenth century, than during any former period of its history. Advocates were then statesmen, legislators, ministers, almost sovereigns; and, in the lives of some of the most eminent among them, may be found not only examples of ability, eloquence, and patriotism, but also an amount of incident and adventure, which seems extraordinary to us who belong to a less excitable race, and live in a country whose government possesses the valuable element of stability, instead of perpetually vibrating between the two extremes of democracy and despotism.

The following are the chief sources from which the author has derived his information:—*Lettres sur la profession d'Avocat*, par M. Camus, Avocat, quatrième édition, par M. Dupin (2 vols. Paris, 1818); *Histoire du Barreau de Paris, depuis son origine jusqu'à* 1830, par Gaudry (Paris, 2 vols., 1864); *Le Barreau au* 19e *Siècle*, par O. Pinard (2 vols., Paris, 1864-5); *L'Histoire à l'audience* 1840-8, par O. Pinard (Paris, 1848); *Le Barreau de Paris*, par Maurice Joly (Paris, 1863); *Histoire du Palais de Justice et du Parlement*, 860-1789, par F. Rittiez (Paris, 1860); *Le Ministère public et le Barreau*, par M. Henri Moreau, avec une introduction de M. Berryer (Paris, 1860); *A History of the French Bar, Ancient and Modern*, by Robert Jones, Barrister-at-law (London, 1855).

The author has particularly to acknowledge his obligations to the works of MM. Gaudry and Pinard, which are full, clear, and agreeably written, and form a valuable addition to the legal literature of France.

EDINBURGH, *April* 1869.

CONTENTS.

CHAPTER I.

AGE

Prevalent ignorance of the history of the French Bar—High character of that Bar, and prominent part played by its members in the great political revolutions of France—Origin of the Bar—The judicial combat—Difficult and dangerous duties of advocates in connexion with it—Gradual progress of the Bar—*La baillée aux roses*—Establishments of Louis IX.—Eminent advocates during his reign, ... 1

CHAPTER II.

Reign of Philip the Fair an important era in the history of the French Bar—Famous advocates during his reign—Conduct of the Bar during the quarrels between the Orleanists and Burgundians—Regulations of Charles VII. with regard to the Bar—Ordinance of Villers-Cotteret—Protest of the Parisian Bar against the Ordinance of Blois, and resignation of their functions by the advocates belonging to it—A parallel case from the history of the Scottish Bar—Advocates of the sixteenth century—Massacre of St Bartholomew, and Roman Catholic League, 17

CHAPTER III.

The Parliament of Paris, its Constitution and Jurisdiction—The Public Prosecutor and the Bar—Organization of the Bar in the seventeenth and eighteenth centuries—Office of *Bâtonnier*—His duties, and those of the Council of the Order—Advocates during the Fronde—Noble conduct of Louis Servin in the reign of Louis XIII.—Parallel Case of the President of the Court of Session and James VI.—Antoine Lemaistre and Patru—Destruction of the Palais de Justice by fire, and its reconstruction by Jacques de Brosse—Revision of the Laws, and establishment of a Law School in Paris under Louis XIV.—Foundation of the Library of the Parisian Bar, ... 36

CHAPTER IV.

PAGE

Eminent lawyers born in the latter half of the seventeenth century, D'Aguesseau, Normand, Cochin—Dispute between the Bar and the President of the Court—The Bar sides with the Parliament in opposing the registration of certain edicts of the Regent Orleans—Erasure of an advocate from the roll of the order—The Bar defends the liberties of the Gallican Church against the Bull *Unigenitus*—Eminent advocates and jurists of the eighteenth century, Gerbier, Elie de Beaumont, Pothier—Causes that led to the Revolution of 1789—Remarkable foreshadowing of it by the Advocate-General Séguier—Part taken by the Bar in the process against the Jesuits—Opposition of Parliament and of the Bar to the King and the Chancellor Maupeou—Suppression of the old Parliament, and substitution of the Maupeou Parliament—Five hundred and forty-four advocates voluntarily abandon the exercise of their functions—The old Parliament restored by Louis XVI.—Disputes between the King and the Parliament—Meeting of the States-General—Suppression of Parliament and of the Bar by the National Assembly, ... 60

CHAPTER V.

Advocates in the Constituent Assembly at the time of the suppression of the Bar—Celebrated lawyers at the Parisian Bar at the time of its suppression—The Girondists, Barnave, Vergniaud, etc.—Boissy d'Anglas—Courts established and Laws passed by the revolutionary Assemblies, 81

CHAPTER VI.

Trial of Louis XVI.—Noble conduct of Lamoignon de Malesherbes—Barrère de Vieuzac—The Reign of Terror—Defence of Charlotte Cordlay by Chauveau-Delagarde—Trial of Marie-Antoinette—Frightful abuses of justice perpetrated by the revolutionary Tribunals—Self-sacrifice of the advocate Ared de Loiserol—End of the Reign of Terror and reappearance of many of the chief members of the ancient Bar—Establishment of the Academy of Legislation and University of Jurisprudence under the Consulate—Important political trials in which the advocates Bonnet, Bellart, and Billecoq particularly distinguished themselves, . 97

CHAPTER VII.

PAGE

Napoleon establishes Schools of Law in Paris and in the chief Provincial Cities, reorganizes the Bar, and codifies the Laws of France—Important labours of Portalis—The advocate Ferey bequeathes his Library to the Parisian Bar—Napoleon's jealousy and distrust of the Bar—His decree reorganizing it, places it entirely under the control of the Minister of Justice—Relations of *le Ministère Public* and the Bar—M. Berryer's remarks on the subject, ... 115

CHAPTER VIII.

Re-establishment of the *Conférences de doctrine*—Change in the Style of speaking at the French Bar—Characteristics of its Eloquence at different periods of its history—Want of true freedom and real political life in the existing Bar—Law of 1814 constituting the order absolute master of its roll—Share of the Bar in bringing about the return of the Bourbons—Political schism at the Bar—M. Bellart's Letter to the Chancellor in favour of the re-establishment of the order on a more free and liberal basis—The Parisian Bar a city of refuge for men of all shades of political opinion, ... 127

CHAPTER IX.

Results of the political schism at the Bar—Report on the Bar made by M. Peyronnet to the King, and Law of November 1822 following thereon—Quarrel between the Court of Assizes and the Bar—Revolution of 1830—Active and important part taken in bringing it about by some leading members of the Bar—Law of August 1830 restoring to the order the full control of its Elections—Course of Study at present required from aspirants to the French Bar, ... 135

CHAPTER X.

Great number of eminent Advocates who have been Statesmen and Ministers since 1815—Celebrated Political Trials since that date—Case of Marshal Ney—Case of Fiévée—The Bar of the Nineteenth Century—Hennequin, Berryer, the Brothers Dupin, 144

CHAPTER XI.

PAGE

The Bar of the Nineteenth Century continued—MM. Dufaure, Chaix-d'est-Ange, Odillon-Barrot, Crémieux, Maugin, Teste, Marie, ... 176

CHAPTER XII.

The Bar of the Nineteenth Century continued—MM. Lainé, Martignac, Berville, Tripier, Merilhou, ... 194

CHAPTER XIII.

The Bar of the Nineteenth Century continued—Military Advocates—MM. Manuel, Romiguières, Michel (De Bourges), . 205

CHAPTER XIV.

The Bar of the Nineteenth Century continued—MM. Ferrère, Sénart, Barthe, Bethmont, Delangle, Garnier-Pagès, Paillet, Mathieu, Ledru-Rollin, ... 214

CHAPTER XV.

The Philosophical and Literary Elements in the Bar of the Nineteenth Century—MM. Royer-Collard, Louis-Marie de Cormenin, Alexis de Tocqueville, etc., ... 232

CHAPTER XVI.

The Bar of the Nineteenth Century continued—The men of the day—MM. Baroche, Billault, Rouher, Jules Favre, Emile Ollivier, etc., . . 261

HISTORICAL SKETCH OF THE FRENCH BAR.

CHAPTER I.

Prevalent ignorance of the history of the French Bar—High character of that Bar, and prominent part played by its members in the great political revolutions of France—Origin of the Bar—The judicial combat—Difficult and dangerous duties of advocates in connexion with it—Gradual progress of the Bar—*La baillée aux roses*—Establishments of Louis IX.—Eminent advocates during his reign.

A THOROUGH and systematic study of law, conducted on scientific principles, has long been common in Germany and France; and, in this country, we have recently endeavoured to improve and extend the education required from aspirants to the Bar. But, on some subjects of great interest and utility, possessing, one would imagine, special claims upon the attention of the legal profession, much ignorance still prevails even among our best informed advocates. For example, how few among them are well acquainted with the history and constitution of the Bar, even in those countries with which our intercourse is most constant and friendly. Yet, in some of those countries, the members of that profession have not only inaugurated and carried out the chief improvements in the principles and practice of law, but have likewise exercised an important influence on their general character and history. Nowhere has this been more strikingly the case than in France; and, in the following sketch of the French Bar, we hope to be able to show that no Bar has been more fertile in men dis-

tinguished as jurists, orators, judges, and statesmen;[1] that none has taken a more active and prominent part in legislation; that none has had greater influence on the chief political movements that have modified or revolutionized the state of parties or the face of society; that none has afforded more striking examples of civil courage and devotion; that none has more highly appreciated learning and talent; that none has more jealously watched over its honour or more rigidly maintained its discipline; while, at the same time, none has ever been more honourably distinguished by the closeness of association and feeling of brotherhood existing among its members.

It is interesting to observe the important part taken by the Bar in all the principal political movements recorded in the French annals, from the earliest times down to our own days. In the dawning of civilisation, before the establishment of modern judicial institutions, we find advocates assisting in its development and progress; we see them engaged in moderating the fury of judicial combats, acting as pacificators in the earlier commotions which distracted France, and not unfrequently falling victims to their devotion. In the contests between the rival factions of the Orleanists and Burgundians, in the League, and in the Fronde, their influence was strongly felt; and they played a prominent part in the great Revolution, and in the numerous political changes that have since taken place. Every power, every party, has by turns had recourse to their assistance, and, since 1789, no body has furnished more orators to the tribune, or more statesmen to the council, while none has exhibited more moderation, intelligence, courage, and devotion. In the Constituent Assembly, Thouret, Barnave, and Chapelier were advocates, and in the Convention, Buzot, Vergniaud, and Guadet. Under the first empire

[1] Even in the Church, members of the French Bar have risen to high honours. Guy Foucault, styled the luminary of jurisprudence, from his remarkable knowledge both of the civil and the canon law, was raised to the Popedom in 1265, under the title of Clement IV.; and two other famous advocates—Pierre de Fontebrac and Pierre de Fusigny—became cardinals.

Napoleon, though he hated advocates, employed them. The Civil Code was almost entirely their work, and many of the chief functionaries of the empire belonged to the Bar. The Government of the Restoration, though the highest classes were devoted to it, had likewise recourse to the Bar, and some of its most eminent statesmen and ministers, such as MM. Lainé, Martignac, Peyronnet, de Serre, and Corbière, were taken from its ranks. In the revolution of 1830, several distinguished barristers took a leading part, so that it has been termed "a revolution of advocates;"[1] and under the reign of Louis Philippe, MM. Dupin, Teste, Sauzet, Barthe, Persil, Martin (du Nord), Hébert, Berryer, Mangin, Marie, Odillon-Barrot, Dufaure, all accomplished advocates, also took high rank as statesmen and politicians. Crémieux, Marie, and Ledru-Rollin, were members of the Provisional Government that came into power on the downfall of Louis Philippe; and a fourth advocate, Garnier-Pagès, was at the same time elected Mayor of Paris. Three out of the five members of the Executive Commission which succeeded the Provisional Government belonged to the Bar; and even now, when an imperial despotism, founded on universal suffrage, has stifled the free expression of opinion, and put an end to that true and useful political life which cannot exist apart from liberty of speech, liberty of association, and liberty of the press, we must still look to the French Bar for the most efficient exponents and defenders of the imperial policy, and likewise for its ablest antagonists. Billault, Baroche, Rouher, Berryer, Thiers, Jules Favre, Emile Ollivier, warriors issuing from the same camp, have gone forth to combat under opposing banners.

[1] "On a appelé la révolution de 1830 une révolution d'avocats; on a eu raison; c'est ce qui la distingue d'autres révolutions faites par les soldats ou par les masses. Jamais révolution ne mérita mieux ce nom, qui, pour elle, restera un éloge, puisqu'il lui imprimait mieux qu'aucun autre le caractère légal qu'elle chercha à se donner dès l'origine; qui fut sa force, peut-être sa faiblesse, auquel elle dut les nuances indécises qui permirent à peine de la discerner dans quelques circonstances; qui n'en constitue pas moins son honneur et son originalité, et qu'elle persista à conserver jusqu'à la fin."—(*Le Barreau au 19e Siècle*, par M. O. Pinard.)

We propose, in this and subsequent chapters, to give a summary of the history of the French Bar, dwelling a little upon the more important epochs in that history, and upon the career of some of the most illustrious advocates, concluding with a brief notice of the constitution, position, and prospects of the Bar in the nineteenth century.

The Gauls were subject to Rome for more than 400 years. No other nation was so completely assimilated to the imperial model; and in the code and constitutions of Justinian we continually meet with rescripts directed *præfecto prætorio Galliarum*. Judicial tribunals were established in the seventeen provinces into which the country was divided, and the eloquence of the Bar was assiduously cultivated, so that we find in Juvenal's fifteenth satire

"Gallia causidicos docuit facunda Britannos."

St. Jerome too, in one of his epistles, mentions the "exuberance and brilliancy of Gallic eloquence" (*ubertatem Gallici nitoremque sermonis*), and the poet Ausonius records the names of twelve illustrious orators of Bordeaux and Toulouse. The profession of advocate was held in the highest honour, and those who exercised it successfully, arrived speedily at wealth and distinction. Two eloquent orators—Marcus Cæsar and Domitius Afer, the master of Quintilian—were born in Gallia Narbonensis, and became leading men in Rome. The latter was the most famous advocate of his time, and exerted himself to rescue the art of oratory from the degradation into which it had fallen. He avoided the affectation and false ornament then prevalent at the Roman Bar. His own style was concise and severe, and his chief excellencies lay in the skilful arrangement of his materials, and the clearness of his statements.[1] Unfortunately, he stooped to become an instrument of the cruel and suspi-

[1] Quintilian makes repeated mention of Afer as the admitted chief of the Bar, and as one of the finest orators he had ever heard. In one place he says:—"Sunt alii multi deserti, quos persequi longum est. Eorum quos viderim, Domitius Afer et Julius Africanus, longe præstantissimi. Arte ille, et toto genere dicendi præferendus, et quem in numero veterum locare non imeas."—(*Inst. Orator.* x. 1. 118.)

cious tyrant, Tiberius, and he has been branded by Tacitus for having acquired wealth as an accuser of innocence.[1] Afer was celebrated for his power of sarcasm, and some of his sayings at the Bar have come down to us, of which the following may be taken as a fair specimen. Longus Sulpicius, a horribly ugly advocate, was pleading before the Centumvirs against the liberty of a client of Afer's: "Look at that fellow," he exclaimed, "he has not even the face of a free man."—"Take good care what you say," retorted Afer; "do you really believe that no man with an ugly face can possibly be a free man?" Afer died during the reign of Nero, and a statue was erected to his memory in his native town of Nîmes.

The Frankish invasion of Gaul dissolved the connexion between that country and the empire, shattered the stately fabric of the Gallic Bar under the Roman dominion, and introduced a ruder and simpler system of laws. Of the times that followed the barbarian invasion we have but scanty records; and we possess no information concerning the French Bar during the sixth, seventh, and eighth centuries. Charlemagne conceived the idea of completing and reforming the laws of France, but did not live to carry out his design, though he issued a series of decrees known as Capitularies, in which, amid all their imperfections, may be traced the work of a master-mind. In a capitulary, dated 802, he specially recommends the interests of justice, and ordains "ut comites et centenarii omnes ad justitiam faciendam compellerent; ut judices secundum scriptas leges juste judicent, non secundum arbitrium suum." In the Capitularies also occurs the first mention of advocates, enacting that none should be admitted into that profession except mild and peaceful men, fearing God, and loving justice. For a time, Charlemagne's great genius succeeded in raising society from the abyss of

[1] "Sed ut studia procerum et largitio principis adversum casus solatium tulerant, ita accusatorum major in dies et infestior vis sine levamento grassabatur. Corripueratque Varum Quintilium, divitem et Cæsari propinquum, Domitius Afer, Claudiæ Pulchræ, matris ejus, condemnator, nullo mirante quod diu egens et parto nuper præmio male usus plura ad flagitia accingetur." (*Ann.* iv. 66.)

ignorance and the dominion of lawless force. But his work—entirely personal—perished with him, and evil became again paramount. The ancient civilisation almost entirely disappeared; war was perpetual; and for one Amadis, there were a thousand bandits sporting with the lives of men and the honour of women. Absurd ordeals dignified by the name of the judgments of God, and judicial combats, usurped the place of regular justice. A law of Gondebaud, king of the Burgundians, promulgated in 501, expressly authorized and regulated these combats. It is known as *la loi Gombette*, and appears to have been intended as a check upon the prevalence of perjury, for it proceeds on the narrative that "We have learned with grief that the obstinacy of pleaders and a censurable thirst for gain, have corrupted the administration of justice among our subjects to such an extent, that, in the majority of cases, they are not afraid to make oath upon subjects of which they are entirely ignorant, or to perjure themselves in matters with which they are acquainted." And it afterwards goes on to enact, that those parties who refuse the oath, and appeal to the wager of battle, shall be allowed the combat. Some wise and good men did indeed exert themselves to put an end to the barbarous custom thus legalized, and Agobard, Archbishop of Lyons, counselled Louis le Debonnaire to repeal what he denounced as "damnosam et damnabilem legem." But the practice was too much in accordance with the mingled ferocity and superstition that characterized the times to be easily put an end to, and the judicial combat was not finally abolished by law until 1566. Under Louis VII., the practice had risen to such a height, that in a law relating to the city of Orleans, it was found necessary to forbid it for a matter less than 5 sols. So that for a sum of £2, 15s.—the equivalent of 5 sols at the present day—and upwards, the lives of one or both of the litigants might be risked in mortal combat. Philip Augustus in the end of the twelfth century, and after him St. Louis, attempted to put a stop to the trial by combat. The latter—by a law of 1260, and afterwards in the second

chapter of his Establishments, published in 1270, before his departure for the crusade—substituted proof by witnesses for the barbarous practice of wager of battle, and from this time it began to decline; though, with the tenacity of life peculiar to abuses of all kinds, it survived for nearly three centuries longer. Philip the Fair relaxed the stringent measures of St. Louis, and allowed the judicial combat in cases involving capital punishment. Advocates played an important part in the singular ceremonies preceding the combat, and their duties are prescribed and regulated by a law of Philip the Fair in 1306. The plaintiff was bound to bring his accusation before the judge personally, or by his advocate; and the advocate's mission was one of no slight danger, as, if he did not take care to speak in the name of his client, and make it clear that he acted solely under his express instructions and that he himself made no accusation, he was held to have offered the combat in his own person, and might be obliged to do battle with the opposite party. The extraordinary mixture of legal formalities, religious ceremonies, and barbarous superstitions which distinguished these judicial combats is highly curious, and strikingly illustrative of the spirit of the age in which they prevailed. The form of procedure, and of the speeches to be made by the advocates for the parties, will be found in Dubrueil. At the conclusion of his speech, the advocate for the appellant threw his client's glove into the centre of the Court. The advocate of the other party brought forward all his reasons of defence to induce the rejection of the wager of battle; and then added, "And in case that the Court should think that the statement made by the opposite party is sufficient to support the wager of battle, my client denies the facts set forth; on the contrary, he affirms that he who has caused these allegations to be made, lies, and that he is ready to support this by himself or by his champion, and thereto pledges his gage." Then the client himself said to the Court before *giving* his gage, "My Lords, I affirm that in all that my opponent has caused to be set forth and vouched against me by his advocate accompanied by the delivery of his glove,

he has lied like a rascal, saving the honour of the Court; and I deny all that he has set forth and stated against me, and support my advocate in what he has said in my defence; and I maintain that, in the event of the Court finding good grounds for the wager of battle, I shall, notwithstanding what the advocate of the opposite party has said to the contrary, defend myself like a good and loyal gentleman, as I claim to be, and as one who has done no wrong in the matter urged against me, and there lies my gage." After the defiance thus given and accepted, a regular minute of the proceedings was drawn up; the judge authorized the combat, and the parties pledged themselves to appear on the day appointed. On that day, the king of arms, after having summoned the combatants, beginning with the challenger, published the police regulations according to law. The combatants, by themselves or by their advocates, made protestation in terms also regulated by law; and the combat was preceded by oaths and religious ceremonies in presence of the advocates of the parties. Then the herald-at-arms gave the signal, the members of the Court retired, leaving to each combatant a bottle of wine and a loaf. The advocates also retired; their ministry was over; and the combatants were left, in the words of the formulary, "to do each the best that he shall be able." The victor gained his cause and left the lists with honour. The vanquished was handed over to the marshal, "to do justice on him according to the king's pleasure." Certainly the advocates of the nineteenth century have good cause to congratulate themselves on being exempted from the risks to which their predecessors were liable in the fourteenth. An ill-considered speech may now lose a cause; but then, a careless word might compel an advocate to throw aside the robes of peace and to do battle for his client, not only metaphorically, but in the most literal sense of the words.[1] Both clients and advocates have a danger the less; and though law still ruins many a man, it no longer authorizes

[1] Antoine Loisel, in his *Dialogue des Avocats*, makes mention of an advocate named Fabrefort who was on the point of being compelled to enter the lists in person, because, while stating the case for Armand de Montaigu, one of the

and assists him to cut the opposite party's throat, or put his own in peril.

The judicial combat at length disappeared before a more enlightened faith and a more advanced civilisation, and the French Bar gradually emancipated itself from the subordinate position which it occupied in those iron times, acquiring a compact organization and increasing in influence and importance, in proportion as men began to perceive the superiority of science to brute force, and to prefer the systematic administration of law both to the chance-medley of wager by battle, and to the no less absurd trial by ordeal, where the ends of justice were at any time liable to be defeated by the tricks of priestcraft.

A curious but elegant usage, dating from the youth of Louis IX., and connected with the Bar, for a long time existed in France. Every year, on the 1st of May, bouquets of roses were presented to each member of the Parliament. This usage was termed *la baillée aux roses*, and originated in the following romantic circumstances :—In May 1227, Queen Blanche, accompanied by the young king her son, held a *cour plénière* at Poitiers, where many of the great vassals of the Crown, peers of France, and councillors of State, had assembled. She made a magnificent entry into the city, surrounded by a brilliant cortége, having the youthful King on her right hand and Thibaut, Count of Champagne, on her left. Behind her came the great lords and peers of France, and after them rode the councillors of the Court, having at their head their President, Pierre Dubuisson, then eighty-nine years of age, but still capable of discharging the important and arduous duties of his office. The President was accompanied by his daughter Marie, a young girl of great beauty and spirit, who had been educated with the utmost care. After the ceremony of the solemn entry into the city was over, the Queen Regent and

parties in a judicial combat, he affirmed that he was ready to make good his averments with his body in the field, without taking care to make it clear that he said this for his client and not for himself. Those present on the occasion thought the matter a capital joke, and the unlucky Fabrefort was much laughed at for his mistake.

King Louis took up their residence in a house belonging to the chief silversmith to the Crown. That house was situated close to the ramparts, and was surrounded by fields covered with roses in full bloom. During the festivities that succeeded, the young Marie was the admiration of the Court for her beauty and grace; but she devoted herself entirely to the care of her aged father, heedless of the admiration which she excited, and of the tender sentiments she had inspired in some of the lords connected with the Court. The youthful Comte de la Marche, who, in his capacity as peer of France, sat along with the members of the Court of Parliament, was particularly smitten with her, and one evening came to press his suit by singing romances beneath her window. Marie, however, had been strictly brought up, and did not approve of this proceeding, so she opened her window, and, when the Count approached, severely reproved him, asking if this was the way in which he prepared himself to pronounce on the important questions which would be submitted to him as a member of the Parliament? The Count listened to this rebuke with respect and attention, and immediately retired. Next day he was to make a report to the Court of Parliament, over which the Queen was to preside in person, and to the diligent preparation of this he consecrated the remainder of the night. On the morrow, when it came to his turn to speak, he rose and stated the matter of which he had the charge with such clearness, vigour, and eloquence, that the Court were equally pleased and astonished, and the conclusions of his report were unanimously adopted. When the Court rose, the Queen sent for the Comte de la Marche, and said to him: "You have just given us an admirable proof of your eloquence, but will you persevere in the path on which you have thus entered?" "I shall at least use every effort to do so," replied the Count. "Very good," answered the Queen; "but be sincere—to whom do we owe this change?" De la Marche made no response, but cast a glance at the young Marie, who stood blushing beside the Queen. The latter then came closer to the Count, and said to him in a low voice: "I was walking in the field of roses with the Count Thibaut when the heavenly

message came to you;" then turning to the President Dubuisson, she created him Chancellor of France; "and as for you, my beautiful friend, Marie, the Court will to-morrow salute you under the title of the Countess de la Marche." The President, the fair Marie, and the Count bowed respectfully to the Queen's commands; upon which her Majesty, addressing the circle of youthful peers who surrounded her, advised them to imitate the example of the Comte de la Marche, and declared that, in order to perpetuate for ever the memory of Marie, and of the marriage that would be contracted on the morrow, she decreed that the young peers should present to the Parliament, on the 1st of May in each year, a tribute of roses, and that the Comte de la Marche should be the first to pay it. Upon this, the Count immediately despatched his pages to gather roses in the fields around Poitiers, who placed them in baskets made of rushes, and presented them to the members of the Court. From that time, for more than three centuries, it was the custom, on the 1st of May in each year, for the youngest of the peers of France to present bouquets of roses to the members of Parliament. In 1541, this graceful usage gave rise to a question between two peers of France, which was keenly debated before Parliament. The Duke of Montpensier claimed to be the first of the peers to present the annual gift of roses, as Montpensier had been erected by the king into a dukedom and peerage; while the Duke of Nevers, on the other hand, disputed this claim, and demanded for himself the right of first presenting the roses. The Court decided in favour of the Duke of Montpensier. *La baillée aux roses* was given up about 1590.

The Establishments of Louis IX., published in 1270, afford the first example of anything approaching to a regular code of French law.[1] They borrow much from the existing con-

[1] Much controversy has taken place on the question whether the Establishments were or were not a code intended for the whole of France. But the opinion of those writers seems the best supported, who consider that they were binding only on the territories which, in the language of the period, were said to be "*de l'obéissance du roi.*" Montesquieu, Dupin the elder, and many other great authorities, take this view of the question. Montesquieu says—"Le code que nous avons sous le nom d'établissemens de Saint Louis, n'a

suetudinary laws of the country, from the Civil, and from the Canon law; and it is evident that such a compilation could only have been drawn up by learned and experienced jurisconsults who probably belonged to the French Bar. The Establishments are contained in two books, divided into two hundred and ten articles. Nearly the half of the first book is occupied with matters relating to feudal law, and with regulations concerning civil and criminal procedure, drawn from the customs and from the Roman law; but by far the most important point is the introduction of proof by witnesses in civil and criminal causes, which gave the first blow to the judicial combat and to trial by ordeal. The fourteenth chapter of the second book of the Establishments contains several regulations of great importance, with regard to the profession of advocate. Thus one rule provides, that all arguments calculated to injure the opposite party shall be spoken courteously, without abusive language, either as to fact or law;[1] and another

jamais été fait pour servir de loi à tout le royaume, quoique cela soit dit dans la préface de ce code. Cette compilation est un code général, qui statue sur toutes les affaires civiles; les disposition des biens par testament, ou entrevifs; les dots et les avantages des femmes; les profits et les prérogatives des fiefs; les affaires de police, etc. Or, dans une temps où chaque ville, bourg, ou village, avoit sa coutume, donner un corps général de loix civiles, c'étoit vouloir renverser, dans un moment, toutes les loix particulières sous lesquelles on vivoit dans chaque lieu de royaume. Faire une coutume générale de toutes les coutumes particulières, seroit une chose inconsiderée, même dans ce temps-ci, où les prince ne trouvent partout que de l'obeissance. Car, s'il est vrai qu'il ne faut pas changer, lorsque les inconvéniens égalent les avantages; encore moins le faut-il, lorsque les avantages sont petits, et les inconveniens immenses." Afterwards he says on the same subject:—"Saint Louis, voyant les abus de la jurisprudence de son temps, chercha à en dégouter les peuples: il fit plusieurs réglemens pour les tribunaux de ses domaines, et pour ceux de ses barons; et il eut un tel succès, que Beaumanoir, qui écrivit très peu de temps après la mort de ce prince, nous dit que la manière de juger établie par Saint Louis étoit pratiquée dans un grand nombre de cours de seigneurs. Ainsi ce prince remplit son objet, quoique ses règlemens pour les tribunaux des seigneurs n'eussent pas été faits pour être une loi générale du royaume, mais comme un exemple que chacun pourroit suivre, et que chacun même auroit intérêt de suivre. Il ôta le mal, en faisant sentir le meilleur." (*L'Esprit des Loix*, L. XXVIII. c. 37 and 38.)

[1] The great advocates of ancient Rome, like those of ancient France, against whom the above law is directed, allowed themselves the utmost license of speech in attacking their opponents in a case. Thus Cicero attacks his brother advocates Erucius, Cecilius, and even Hortensius, his friend and most illustrious rival, in the bitterest manner; Crassus, one of his greatest predecessors, was

forbids the advocate to make any bargain with the party for whom he pleads for a share of the matter in litigation. A subsequent law of Philip the Bold, published in 1274, imposes upon advocates the obligation of swearing, that they will only take charge of those causes which they believe to be just—the refusal to take the oath being punished with interdiction. The second and third articles of this law treat of the fees of advocates, which were to be proportioned to the importance of the cause and the skill of the pleader. The fee was never to exceed thirty livres turnois, equivalent to about £27 of our money. Advocates were to swear that they would receive nothing above that sum, directly or indirectly, and they were liable to be declared infamous, and to be perpetually interdicted for any violation of this oath. A subsequent law of the same monarch seems to imply that, at that period, the pleadings were not public; for it provides that no persons except those necessary for the conduct of the cause shall enter the Court. Nor does the Roman law then appear to have had much authority in France, as an article of the same law enacts, that no advocate shall found upon the written law where the consuetudinary law exists. In 1291, Philip the Fair renewed the enactments of Philip the Bold, concerning the fees of advocates, and the prohibition to receive anything beyond the amount fixed by law, and added to it a recommendation to them to be exact in the discharge of their duties, and to avoid the use of abusive language in their pleadings.

By far the most distinguished advocate of the age of St. Louis was Guy Foucault, afterwards Pope, under the title of Clement IV. He was born in Languedoc, about the year 1200, devoted himself to the study of law, went to Paris, and became the most distinguished pleader of his time, and one of the royal council. He took orders after the death of his wife,

notorious for his sarcastic remarks; so also were Cneius Pomponius, Asinius Pollio, and Cassius Severus, all ornaments of the Roman Bar. The following rescript of the Emperors Valentinian and Valens, similar in terms to the provision in the Establishments of St. Louis, is directed against this license of personal abuse:—"Ante omnia autem universi advocati ita præbeant patrocinia jurgantibus; ut non ultra quam litium poscit utilitas, in licentiam conviciandi, et maledicendi temeritatem prorumpant; agant, quod causa desiderat; temperent ab injuria."

was made Bishop of Paris in 1250, Archbishop of Narbonne in 1260, and Pope in 1265. He seems to have been thoroughly free from the vice of nepotism, which disgraced the character of so many Popes, as the following curious letter to his nephew, Pierre Legros, sufficiently proves. He thus addresses him :—"Be content with your present position ; let your brother and other relations be so also, and let them not come to the Pontifical Court without being summoned, unless they wish to be sent back covered with confusion. Do not seek for your sisters husbands too much above their own rank. If you marry them to the sons of simple knights we shall give them a dowry of 300 livres turnois. . . . As to our own daughters, we will that they marry those whom they would have had if we had remained a simple priest." In a letter to Charles of Anjou, who had become King of Sicily, Clement IV. shows himself possessed of ideas with regard to the administration of justice far in advance of the age in which he lived. "Select," he says, "wise men to reside in your palace, who, on each day set apart for the administration of justice, shall decide causes, and intimate to you their decisions, in order that you may confirm them, or send them back for reconsideration to those who have tried them." Afterwards he says, "Have men of substance for your judges, men with clean hands. Make them publicly swear to administer justice without respect to persons or nationality. In order that justice may be freely administered, leave the magistrates to discharge the duties of their office, and do not bring before yourself, at the instigation of certain persons, suits commenced before them, unless under circumstances of grave and pressing necessity. Let law-suits follow their regular course, and let those who think themselves aggrieved have the right of appeal." A stain has been left on the memory of this great man by the counsel which he is said to have given to the same cruel and fanatical Charles of Anjou, to whom the above letter is addressed, and who consulted him with regard to the fate of his unsuccessful rival, Conradin, the last scion of the royal house of Hohenstaufen. The Pope is said by several writers to have answered, "*Vita Conradini, mors Caroli ; mors*

Conradini, vita Caroli," an answer which sealed the fate of the captive prince. M. Gaudry, in his *Histoire du Barreau de Paris*, denies the truth of this imputation. But when we consider the long struggle for power between the Popes and the great German race of the Hohenstaufen, the undying and deadly hatred of the Papacy against all who opposed its pretensions, and the respectable character of the writers who relate the story of Charles's application and the Pope's answer, we are scarcely prepared entirely to exonerate the great French advocate and Pope from the charge brought against him.

Another distinguished advocate of the age of Louis IX. was Philip de Beaumanoir, who wrote about 1283 a work entitled *Des Coutumes de Beauvoisis*,[1] in which many important legal questions are treated with much ability. The sixth chapter is entirely devoted to advocates, and contains some curious rules with regard to pleadings, fees, etc. Among other things, he recommends them to hear their adversaries' statements with calmness and patience, and to be brief in their pleadings. It appears that those convicted of false witness, excommunicated persons, and those in the habit of insulting the judges and the parties in a suit, were, at this period, refused admission to the Bar. The judge also had the right of refusing to allow advocates whose incapacity was known to him to plead before him. He could likewise, on the application of parties, appoint them an advocate, whose fees should be regulated by usage, and who was bound to accept such an appointment, unless he could state satisfactory reasons for his refusal. Upon the whole, therefore, the French Bar in the time of St. Louis appears to have received a distinct organization, and to have been subjected to a strict discipline.

Another famous advocate who flourished in the reigns of

[1] "La France étoit régie, comme j'ai dit, par des coutumes non écrites; et les usages particuliers de chaque seigneurie formoient le droit civile. Chaque seigneurie avoit son droit civile, comme le dit *Beaumanoir*; et un droit si particulier, que cet auteur, qu'on doit regarder comme la lumière de ce temps-là, et une grande lumière, dit qu'il ne croit pas que, dans tout le royaume, il y eût deux seigneuries qui fussent gouvernées de tout point par la même loi."—(Montesquieu, *L'Esprit des Loix*, L. XXVIII. c. 45.)

Louis IX. and Philip the Bold was Yves de Kermartin, who was born in Brittany in October 1253, and died 16th May 1303. He was canonized at St. Yves in 1347. By some authors—such as Loisel, Rittiez, and others—he is considered the patron saint of advocates; but M. Gaudry thinks that that honour belongs to St. Nicolas, who was received as the patron of the legal faculty in France five years before the canonization of St. Yves. The last great name that we shall mention among the founders of the French Bar is that of Guillaume Durand, author of the *Speculum Juris*, a treatise on the whole science of law. He was distinguished as a poet and theologian as well as a lawyer, and such was the respect in which his legal knowledge was held in his own days, that he was termed, not merely *jurisconsultus*, but *jurisconsultissimus*. His great work contains many useful and eloquent remarks upon the profession of the Bar; and abounds in noble thoughts expressed in vigorous language, which show that he had true and elevated conceptions of the duties of those charged with the administration of justice. He is fond, for instance, of repeating the maxim, "*Tutius est condemnandum absolvere, quam absolvendum condemnare*,"—a maxim too often violated in the days in which he lived. Under Philip the Bold, the Ecclesiastical Courts attempted to arrogate to themselves the regulation of the profession and fees of advocates, with the view of thus gaining the ascendency in civil matters over the French kings, and also in order to punish the advocates for their courageous and successful resistance to the famous Bull of Gregory VII. infringing the liberties of the Gallican Church. And here it deserves to be mentioned to the honour of the French Bar, that, from first to last, they uniformly resisted the encroachments of the Papacy upon the independence of the French throne and the liberties of the Gallican Church. As we advance in our narrative, we shall meet with many memorable examples of their honourable and patriotic opposition to the ecclesiastical usurpation, which would fain have turned the whole of Europe into a vast hierarchy.

CHAPTER II.

Reign of Philip the Fair an important era in the history of the French Bar—Famous advocates during his reign—Conduct of the Bar during the quarrels between the Orleanists and Burgundians—Regulations of Charles VII. with regard to the Bar—Ordinance of Villers-Cotteret—Protest of the Parisian Bar against the Ordinance of Blois, and resignation of their functions by the Advocates belonging to it—A parallel case from the history of the Scottish Bar—Advocates of the sixteenth century—Massacre of St. Bartholomew, and Roman Catholic League.

THE reign of Philip the Fair is one of the most important in the history of France. He made the Parliament stationary, which formerly had followed the person of the King, and thus greatly increased the power and influence of the Parisian Bar, and gave a strong impulse to the science of Jurisprudence. The study of the Roman law, the emancipation of the serfs of Valois, and the regular keeping of the Registers of Parliament, date from his reign. With the assistance of some able and learned lawyers, such as Enguerrand de Marigny, Nogaret, Plasian, and others, he was able to make head alternately against the encroachments of the Papacy, the feudal law, and the great vassals of the crown. The regular keeping of the archives of the Grand Court of Parliament was ultimately provided for by a law of Philip the Long, which enacted, that "there shall be kept a book called *Journal*, in which shall be continuously inscribed what has been done in our council." Since that period, the Registers of the proceedings of the French Court of Parliament have been regularly kept, and the Imperial Archives contain more than 10,000 volumes, arranged according to their chronological order, from 1254 to 1790. The Advocates' Library in Paris possesses one of the principal abridgments from this immense collection, comprised in 225 volumes, and extending, with some gaps, from 1383 to 1790. In speaking of this latter series of records, M. Gaudry

remarks,—"The history of the Parisian Bar is found there almost entire; it is, in spite of its imperfection, one of the most precious collections."

A law of 13th February 1327 made more particular regulations with regard to the duties of members of the Bar than had previously existed. They were obliged to make oath that they would diligently and faithfully discharge the duties of their office; that they would not knowingly take up unjust causes; that if they discovered any cause to be unjust after they had undertaken it, they would forthwith abandon it; that they would immediately intimate to the King's Court if anything in any of their causes affected his Majesty; that they would not knowingly introduce matters impertinent to the cause, or state or insist upon customs which they did not believe to be true; that they would to the utmost of their power endeavour to expedite their causes; that they would not seek delays or knavish subterfuges; that, however important the cause, they would not receive, under any pretence, more than thirty livres tournois as a fee for their services; that for a cause of average importance they would receive less, and for a cause of trifling moment much less, according to the character of the cause and the quality of the suitors. Such was the nature of the oath imposed upon the advocates admitted to plead before Parliament; and we think it will be generally admitted that it shows a very fair appreciation of the duties of the Bar, considering the time in which it was framed. A resolution of the Parliament of Paris, following upon a royal ordinance of March 1344, gave a still more specific organization to the Bar, and provided for the creation of a novitiate, or period of probation, for those who intended to become advocates. Three classes of advocates are noticed in this resolution—consulting advocates, pleaders, and listeners. Of these, the first were the highest in professional rank, being of at least ten years' standing. They wore a robe of black silk, covered with a scarlet mantle lined with ermine. The pleaders wore a violet gown, the listeners a white one. An ordinance of King John in 1363 ordained

that advocates should sign their papers, "that the knowledge and skill of the advocates of our court may appear more clearly, and that they may be more strongly stimulated to write, in a brief, able, and substantial manner." It is further provided that they shall not be heard more than twice in the same cause, and that they shall not repeat in their replies or duplies what they have already said, unless it be absolutely necessary. Thus, even at this early period, the right of reply, and even of duply, was considered as one of the greatest privileges of the Bar; and the right of defence seems to have been as well provided for in the stormy days of King John, when France was exhausted and crippled by the English wars, as it is now, when she is in a position to dictate to Europe under the imperial despotism of Napoleon III. The advocates in Paris were held in great honour by the Court of Parliament. "They are," says Pasquier, "honoured with the furred hat, which is the true mark of the magistrates of the Palace, and they also give to the more ancient among them a seat on the *fleurs-de-lis* with the King's Counsel." Advocates of high standing were often consulted by the judges upon difficult questions. In the old style of Parliament they are termed *conseillers au parlement*, and in the sixteenth century they still preserved the costume belonging to that office; for, in 1514, on the occasion of the entry of Mary, sister of the King of England, into Paris, when the Parliament resolved to go to meet her in scarlet robes and furred hats, the President sent to summon the advocates "to join themselves to the Court, well mounted, and clothed in robes of scarlet and furred hats."

Among the famous advocates of the fourteenth century, may be mentioned Pierre de Cugnières, who possessed the confidence of Philip the Fair, and who is said to have written the famous answer of Philip to the outrageous claims of Boniface VIII. The Pope wrote to the King:—"*Scire te volumus quod te in spiritualibus et temporalibus subditum habemus; aliter autem credentes hæreticos habemus.*" To which the monarch replied, in terms said to have been drawn up by Cugnières,

and certainly more remarkable for vigour than politeness:—"*Sciat tua maxima fatuitas, in temporalibus nos alienis non subesse; secus autem credentes fatuos et dementes reputamus.*" Pierre de Cugnières raised for the first time the question of appeal in error against the decisions of the ecclesiastical courts; and his determined opposition to the Court of Rome made him be very generally deemed a heretic. He died in 1356. Guillaume de Nogaret, another advocate, also signalized himself by his opposition to the Papal claims. Philip sent him, along with Sciarra Colonna, to arrest the Pope. He surprised him at Agnani, made him prisoner, and carried him to Rome: and Boniface soon afterwards died of grief and rage, having previously, however, taken care to excommunicate Nogaret. Benedict XI., successor to Boniface, continued the excommunication. Nogaret appealed to a General Council, and was at last absolved by Clement V., on condition that he should make a pilgrimage to the Holy Land. He died in 1313. Raoul de Presles, poet, historian, and advocate to Charles V., is generally supposed to be the author of the *Songe du Vergier*, in which, under the semblance of the greatest respect, the temporal pretensions of the See of Rome are attacked with the utmost vigour.[1]

In the early part of the fifteenth century, France was torn by the quarrels of the rival factions of the Orleanists and Burgundians, of which the first act was the assassination of the Duke of Orleans, the King's brother, in Paris, in the Rue

[1] The *Songe du Vergier* was first printed in France in 1491, and reprinted in 1501. Its chief object is to support the secular jurisdiction against the encroachments and usurpations of the ecclesiastical power. The author, in order to make his subject popular, puts it in the shape of a dream, after the manner of the *Romance of the Rose*, then universally read and admired. Being asleep in the midst of an orchard, he hears in a dream a discussion between a knight who supports the King and the prerogatives of the Crown, and a clerk devoted to the Pope and to the Ecclesiastical Courts. After a lengthened controversy, the knight gains the day, and his antagonist ends by confessing himself vanquished. The famous English philosopher, William of Occam, wrote, many years before the composition of the *Songe du Vergier*, a treatise on the same subject, in which, under the form of a dialogue between a knight and a clerk, he maintains that the possessions of ecclesiastics ought to be treated like those of laymen, and that the Pope has no jurisdiction in temporal things.

Barbette, by order of the Duke of Burgundy. An advocate, Guillaume Cousinot, displayed extraordinary courage in venturing to plead the cause of the widowed Duchess of Orleans before the Parliament against the assassin, the terrible John the Fearless, Duke of Burgundy, whose troops occupied Paris. His courage, however, did not communicate itself to the Court; and the King granted letters of absolution to the murderer of his brother. In 1418, the Burgundians possessed themselves of Paris, and in concert with the populace, who favoured them, took an atrocious vengeance upon the Orleanist or Armagnac party. On 26th May, fifty or sixty Orleanists were put to death, and the prisons were crowded with all who were suspected of favouring their faction. On the 12th June, the populace attacked the prisons, and massacred all the prisoners, to the number of 1500 persons; among whom were the Chancellor—Henri de Marle—four presidents of the Parliament, twenty-three councillors, and forty-one advocates. In 1418, only sixteen advocates were left in Paris; and justice had almost entirely disappeared in the midst of massacres and rebellion. The following year the Duke of Burgundy was assassinated on the bridge of Montereau, in presence of the Dauphin. In 1422, upon the death of Charles VI., the King of England took possession of the throne; and in the registers of Parliament in 1425 are to be found several edicts and ordinances in the name of Henry, King of France and England. In 1436 the English were driven out of Paris, and the Court returned to it after eighteen years' sojourn at Poitiers; and in 1439, Guillaume Cousinot, the intrepid advocate above mentioned, received the reward of his devotion by being made President in Parliament. In the last-mentioned year Paris was ravaged by a deadly pestilence. The King and Court fled from the city; but the Parliament and the advocates determined to remain at their posts, and many of the latter fell victims to their sense of duty.

Charles VII. made several regulations with regard to the French Bar. In one dated 1446, we find it enjoined upon advocates to be as brief as possible in their pleadings and

writings, on pain of an arbitrary fine; and in another, dated 1453, they are recommended to be moderate in their fees, both for pleadings and writings, which seems to show that the old regulations restricting them to thirty livres turnois had fallen into disuse. Shortness of pleadings is also enjoined; and from the repetition of this injunction in almost all the ordinances, it may fairly be inferred that the long-windedness of the Bar had been found a serious obstacle to the efficient administration of justice.

The Pragmatic Sanction of Charles VII. recognised the supremacy of councils, the freedom of ecclesiastical elections, the abolition of the reservation of benefices, annats, and other rights claimed by the popes, and the restriction of the effects of ecclesiastical censures. It was, of course, highly distasteful to the See of Rome; and Louis XI.—a prince as superstitious as he was cruel, treacherous, and unscrupulous—determined to undo the work of his father, and an ordinance of revocation was prepared in 1461, in which it is declared that the Pragmatic belongs to a time of schism, and is a work calculated to seduce men from the authority of the Pope. The Parliament and the Bar, however, faithful to their old traditions, refused to register this ordinance; and Jean de Saint-Romain, an advocate and *procureur-général*, had the courage to tell Cardinal Balue, then Prime Minister of Louis XI., that "he betrayed the interests of the King." The affair was not pressed; and when, three years afterwards, Louis again brought the matter under the notice of the Parliament, an answer, couched in twenty-nine articles, was returned, and it was declared that the new ordinance "was dangerous, and contrary to the laws and to the interests of the kingdom."

Some important regulations with regard to the Bar belong to the reign of Charles VIII. By one of 1490, it is forbidden to admit to the profession of advocate any one who has not studied in a recognised university for five years, and who has not been found properly qualified. By a subsequent ordinance, the buying of any judicial office is strictly forbidden, under pain of severe penalties. The reign of the selfish, voluptuous, and

unprincipled Francis I. was disgraced by the establishment of the torture and the interdiction of the free defence of accused persons. Criminal proceedings were made secret, and the functions of the *parquet*, or public prosecutor and his subordinates, were separated from those of the Bar, so that members of the latter were deprived of the hope of being rewarded for their services by being promoted to the rank of crown counsel. The ordinance of Villers-Cotteret (August 1539) was good in only one respect—its introduction of the French language into judicial proceedings. Its other provisions above mentioned, depriving the accused of the benefit of counsel and of free and open defence, were highly objectionable. Another great evil received the sanction of law during this reign. The purchase of offices was legalized. A bureau was opened for their sale; and what had formerly been considered an abuse was now openly and universally practised, to the great detriment of justice and of the public service. Francis was desirous of gaining over the Pope in order to further his designs upon Italy; and, in order to do so, concerted with him a concordat which was to overturn the Pragmatic Sanction of Charles VII. But the Parliament and the Bar, as formerly, were jealous of the interference of Rome with the independence of France and the liberties of the Gallican Church, and strongly protested against the proposed concordat, and resisted its registration. Again and again they refused to agree to it, in spite of the remonstrances and anger of the King; and, in a solemn sitting held 24th July 1517, the advocates Bouchard, Jean de Lantier, and Oliver Alligret pleaded against it with great ability and the utmost boldness. At length, however, after six months' resistance, the royal will prevailed, and the obnoxious concordat was registered.

The pride and delicacy of feeling of the French Bar were deeply injured by an ordinance of Henry III., known as the ordinance of Blois, one article of which enjoined them to inscribe with their own hands, beneath their signature, the amount of fees they had received. They had previously been in the habit, from time immemorial, of receiving their fees

without any acknowledgment, and they refused to submit to this regulation, which was allowed to remain unexecuted. However, under Henry IV., the Parliament, forgetful of the good understanding which had always subsisted between it and the Bar, listened to the representations of Sully, who complained of the enormous fees paid by a noble relative,[1] and made an order that the provisions of the obnoxious ordinance of Blois should be enforced. The result was a protest, famous in the annals of the French Bar. Their repeated and respectful remonstrances having been ineffectual, the advocates went, two and two in a body, to lay down the functions of their office, deciding upon "voluntarily abandoning the profession of advocate rather than obeying a law injurious to their honour." Four hundred and seven advocates thus solemnly protested against the ordinance of Blois. When the Parliament met, there were no advocates to plead. Justice was at a stand-still, and the capital on the verge of an outbreak. In this awkward dilemma, the Parliament applied to the King to extricate them from the embarrassment they had been led into by their own shortsighted obstinacy; which that great monarch did by confirming *pro forma* the order of Parliament, but, at the same time, reinstating the advocates in their functions, and authorizing them to plead *as they had previously done;* so that the Bar were successful in carrying their point. During the time the matter was undecided, there were no pleadings from 21st May to 20th July—all the advocates adhering to their resolution of voluntary deprivation in preference to what they considered to be dishonourable submission.

A similar secession and similar instance of independence—though not quite so unanimously carried out, nor so successfully persevered in—occurs in the history of the Scottish Bar. It is thus narrated in Brunton and Haig's *Historical Account of the Senators of the College of Justice.*

"In February 1674, the Court were about to decide a

[1] This noble relative was the Duke of Luxemburg, who complained that an advocate had demanded 1500 crowns for an important cause, or a sum nearly equal to £500 in the present day.

cause depending between the Earl of Dunfermline and the Earl of Callender and Lord Almond, in favour of the former. Lockhart (afterwards Lord-President), who acted as counsel for Lord Almond, advised his Lordship to appeal from the Court to Parliament, and accordingly the latter appealed, and in presence of the judges gave in his appeal. This unexpected proceeding highly surprised and offended the Court. Resting on the statute of James II., which declares that all causes decided by the Court, then called the Session, shall be final, and that of James V., by which the sentences of the Senators of the College of Justice were declared to be of the same validity as those of the former Lords of Session; they considered the appeal as illegal, and resented it as disrespectful. They accordingly addressed the King on the subject, and, after narrating the acts on which they grounded their opinion, pointed out the dangerous consequences which would ensue if appeals were to be permitted, and their decrees rendered thus ineffectual and illusory. To the King the right of appeal contended for was peculiarly disagreeable. He knew well the hold which the decisions of the Supreme Court gave him over the fortunes of his subjects, and that it was much easier to nominate pliant judges than to procure the return of subservient members of Parliament. A letter was therefore written to the Court, approving of their conduct, expressive of the royal determination to support them in the exercise of all their privileges, and directing them to make inquiries as to who had been contrivers of the scheme. The Lord Almond and his counsel were, on the receipt of this letter, ordered to attend the Court on the 26th of February. His Lordship still adhered to his appeal, but refused to swear if he had done it with or without advice. His counsel were then called, and two of them, upon oath, denied all knowledge of the appeal, but the other four, including Lockhart, refused to swear, as inferring a breach of confidence between them and their clients. The Court unanimously repelled the objection, and ordained them to give their oaths on the following day. They were then heard at greater

length on their reasons for refusing to swear, which having been again overruled, they were of new commanded to make oath, and again declined. The dignity of the Court was now fully committed, but, as the Session was at a close, they contented themselves with sending the King a narrative of what had taken place. A royal letter, dated the 19th May, was sent down at the opening of the Summer Session, declaratory of the King's abhorrence of the appeals, and containing instructions to the Court to intimate to all advocates, writers, and other members of the College of Justice, 'that none of them presume to advise, propose, plead, speak, or suggest anything that doth express or import the changing of any of the decreets and sentences of the Lords of Session with injustice, whether in the terms of appeals, protestations, supplications, informations, or any other manner of way, either publicly in the exercise of their functions, or privately in their ordinary conversation with their clients,' under the pain of deprivation. The King also directed that nothing further should take place with regard to the advocates who had refused to swear as to their knowledge of the appeals, provided they would now disown the same, but that if they refused to disown the appeals, they should be debarred from exercising the functions of an advocate in time coming. The Court intimated the contents of this letter to the whole body of advocates on the 23d June, and the rest having been then removed, Sir George Lockhart, Sir John Cunninghame, and Mr. William Weir were required to obey the letter, in so far as they were concerned. Continuing still resolute, they were deprived on the following day, and immediately left the house, followed by almost the whole body of the Faculty. The Court had not calculated on this unanimity and firmness, and for some time vainly tried to break it by threatening proclamations. The advocates still absented themselves. One division of them, headed by Sir George, enjoyed themselves at Haddington, the other, with Sir John Cunninghame, resided at Linlithgow. It was now resolved to try stronger measures, and a letter was addressed by the King to the Court on the 12th December,

in which, after mentioning that as yet none of the advocates had petitioned to be restored, 'whereby, and by their whole carriage in this matter, we are convinced that in a factious way they doe forbear to give or offer satisfaction, each for himself severally, till they all come in jointly together, upon such terms as they think fit, which is a dangerous preparative, and highly prejudicial to our service;' the King promises, for the encouragement of those advocates who had remained, that he will not allow a greater number of the absentees to be readmitted than the number of those who had continued, and declares, on the word of a prince, that such of the advocates who had withdrawn, and who should not petition for their readmission before the 28th of January following should never be admitted at any time thereafter. Even this did not produce submission. On the contrary, the advocates, under the direction of Sir George Lockhart, on the last day fixed for receiving their petitions, gave in one to the Privy Council, justifying the use of protestations for remeid of law from various statutes; but offering, if the judges would, by an Act of Sederunt, 'plainly and clearly declare that protestations for remeid of law to His Majesty and Estates of Parliament were and are in themselves unlawful, and that the Parliament cannot thereupon renew and rescind their decreets if they find just cause, the petitioners will so far defer to their authority as to be concluded thereby, and satisfy what was prescribed and required by the Lords of Session as to that point.' This pleading highly offended the Privy Council, who sent it to the King as a most seditious paper, and Sir John Cunninghame, Lockhart, and Sir Robert Sinclair were therefore sent to London to appease the King, which, however, they were not then able to accomplish. A process was raised against the advocates before the Privy Council (20th February 1675), to which defences were lodged by Sir George Mackenzie and others, which may be seen in his memoirs of Scotland. According to his own statement, having discovered that Lockhart and others at London were waiting the issue of this process before deciding on their

future conduct, he called the advocates together, and recommended submission, adding, 'It was no dishonour to submit to their Prince, ceding being only dishonourable among equals, and never being so when the contest was raised by those who designed to make them knaves and fools. All such tumults tended to sedition, and sedition to war, in which advocates not only became losers, but insignificant.' This reasoning prevailed, and the advocates yielding; were readmitted. Deserted by their associates, Lockhart and his friends in London were soon afterwards obliged to follow their example. The King declared himself satisfied with their submission in a letter to the Court, dated 11th December 1675, and Lockhart and his colleagues were readmitted on the 28th January 1676." That the advocates were in the right throughout this struggle it seems scarcely possible to doubt; and the right of appeal for which they contended was acknowledged and established soon after the Revolution, as a salutary control over the Court of Session.

Pierre Séguier and Christophe de Thou were two of the most eminent advocates of the sixteenth century. The latter was raised to the high dignity of first President of Parliament in 1562, and was the father of the celebrated historian Jacques-Auguste de Thou. Both were eloquent and successful pleaders, but in different styles. The one was short and pointed; the other fluent and diffuse. Of Séguier it was said, *Multa paucis;* and of De Thou, *Pauca multis.* The Séguiers were a famous family of the robe. Pierre Séguier was King's Advocate, and afterwards a president in Parliament; and the same honours were held by his son Antoine, who was the first King's Advocate who assumed the title of Advocate-General; while Pierre Séguier, the second of the name, became Chancellor of France. The first of these great men particularly distinguished himself during the discussions which took place between the Pope and Henry II., by the firmness with which he opposed the papal pretensions, and by his successful resistance to the establishment of the Inquisition in France. His son also was a zealous champion of the

liberties of the Gallican Church, and succeeded in obtaining the condemnation of the bull of Gregory XIV., which encroached upon them. The second Pierre, Chancellor of France, displayed great moderation, and also much tact and firmness during the ministry of Richelieu, and afterwards during the regency of Anne of Austria; and it was a descendant of his who, under the Restoration, when urged, as President of the Royal Court, to give a decision in favour of the Government, made the noble and memorable answer, "*La Cour rend des arrêts et non des services.*" Even now this great family of the robe maintains its glorious traditions of dignity and independence, for from it is descended the Baron Séguier who so recently resigned his office of *Procureur-Impérial* in the Court of Toulouse, rather than submit to the dictation of the Minister of Justice, which would degrade judicial functionaries into mere tools of the Government. The following letter from Baron Séguier to his immediate superior, the *Procureur-Général*, serves to show both that a strong spirit of independence and self-respect still animates the French Bar, and that the existing Government is jealous of that spirit, and determined to crush its manifestations :—

"M. LE PROCUREUR-GÉNÉRAL,—I have the honour to thank you for having communicated to me the fresh reproaches addressed to me by the Keeper of the Seals, and I pray you to excuse the trouble I occasion you at this moment.

"It appears from the letter of the Keeper of the Seals, dated the 30th of December—1. That in my address pronounced on the 24th against the *Emancipation*, I desired to commit you to the singular engagement I am said to have taken to accept the indulgence of the Tribunal.

"I never uttered a word of the kind; and this proves to me what, in point of fact, I already knew—that the persons who are charged with watching me during the proceedings in the Court, and with repeating my words, have been ill selected. You inform me—2*d*, That the Keeper of the Seals does not think he can any longer tolerate my addresses as Public Pro-

secutor, on the ground of their being too weak as regards the press.

"Now, to address a Court under the supervision of a secret police, and to adopt conclusions imposed beforehand by the Keeper of the Seals, are two things which, for my part, I cannot accept; and therefore I pray you, *M. le Procureur-Général*, to be so good as to place my resignation as *Procureur-Impérial* of Toulouse in the hands of the Keeper of the Seals.

"The resignation I offer is not a voluntary act. It is forced upon me by the unjust and offensive reproaches which have been lavished upon me for some time past for my attitude towards the press; and it is a real disgrace I am subjected to at this moment for my desire to serve the Emperor with the moderation and dignity which the Keeper of the Seals himself recommended to us in his circular of the 4th of June 1868.—I remain, respectfully yours,

"SÉGUIER, *Procureur-Impérial.*"

M. Séguier's conduct has been generally applauded, and the law-students of Toulouse have presented him with an address of congratulation; while the *Presse* observes, with reference to the conduct of the Minister of Justice:—"If a prosecution is to be carried on, without discussion and without examination, on a simple order from his superior, if blind and instantaneous obedience are the principal qualifications for a magistrate, and if moderation is a fault, the French tribunals can easily find models in two personages whom the Governments they served never had cause to reproach with hesitation, slowness, or lukewarmness in prosecuting, or with weak condescension to public opinion. We have only to set up in the new Assize Courts just opened in Paris the statues of Jeffreys and Fouquier-Tinville!"

Olivier, Jean Lemaistre, François de Marilhac (who defended Anne Dubourg and the Prince of Condé), Simon Marion,[1] Antoine Arnaud, Omer Talon (the first of the name), and Etienne Pasquier, were also among the eminent advocates

[1] Cardinal du Perron pronounced the following judgment on this eminent advocate and judge:—"M. Marion est le premier du Palais qui ait bien écrit."

who have left the traces of their talents and virtues in the annals of the sixteenth century. Antoine Arnaud, born in 1548, preferred the career of the Bar to the office of Advocate-General, or a place in the King's Council. His most celebrated pleading is that against the Jesuits in 1594. He was so famous for his eloquence that Henry IV., wishing to gratify the Duke of Savoy, took him to the Parliament where Arnaud was pleading; and so charmed was the King with his speaking, that he sent him the brevet of Councillor of State that same day. The respect and popularity that Arnaud enjoyed were immense. He had the greatest nobles in the realm for his clients, and they were in the habit of coming to his house to consult him. He married the daughter of Simon Marion above mentioned, and became the father of twenty children, of whom ten died in infancy. His four sons were distinguished by their talents and virtues, and his six daughters embraced a religious life at Port-Royal, of which one of them—*la mère Angélique*—became abbess at a very early age. The great Arnaud, the youngest of his sons, also retired to the Abbey of Port-Royal, which became the nursery and school of Jansenism, and the refuge of many distinguished men, including several eminent members of the French Bar.

The advocates of Paris had the principal share in arranging and putting into shape and order the different systems of consuetudinary law existing in various parts of France. This important work was commenced about the middle of the fifteenth century, under the reign of Charles VII. The *Coutume de Ponthieu* was the first drawn up, under Charles VIII., in 1495; the others were published in the sixteenth century, under Francis I., Henry II., and Charles IX. The *Coutume de Paris*, drawn up in 1510, was almost entirely the work of the Bar, and so was its revisal in 1580, which was performed by Montholon, Versoris, Pasquier, Antoine Loisel, Simon Marion, and Louis de Sainction, all members of the Bar. Much, however, still remained to be done, even after these important works had been completed, and the evils arising from con-

stant conflicts of jurisdiction within the limits of the same kingdom, continued to be severely felt for more than two centuries longer. They are thus powerfully described by Voltaire in treating of the laws under Louis XV. :—"Feudal anarchy exists no longer, but several of its laws still exist and create an intolerable confusion in French legislation. Shall we always decide the same cause differently in the province and in the capital? Shall the same man be right in Brittany and wrong in Languedoc? What do I say? there are as many different jurisdictions as towns. And, even in the same Parliament the maxim of one Chamber is different from that held by the neighbouring Chamber. They are guided by the Roman law in those departments where the written law rules, and regulated by the customs where the written law has not decided upon a given point. But these Roman laws are 40,000 in number, and upon these 40,000 laws there are 1000 huge commentaries which contradict one another. Besides these 40,000 laws we have 540 different customs, reckoning the small cities and even some market-towns which are exempted from the principal jurisdiction; so that a man who travels post through France changes laws oftener than he changes horses; and an advocate who is considered very learned in his own city is deemed but an ignoramus in the neighbouring towns."

The sixteenth century was not distinguished for the good taste and eloquent style of its judicial pleadings. They were too often disfigured by a strange marquetry of French and foreign words, more curious than correct, and overloaded with long quotations from a variety of authors, sacred and profane, which were intended to display the learning of the advocate, but which materially interfered with the progress and effect of his argument. Many great writers on the science of jurisprudence, and many distinguished teachers of its principles, flourished in France during the sixteenth century, among whom we may mention Budé, who was born in Paris in 1467, and died in 1540. He was termed "the splendour and ornament of the realm, and the restorer of the Roman law." His

commentaries on the Pandects, written in a somewhat barbarous latinity, are his principal work. He was so absorbed in his studies that he had no time or attention to bestow upon anything else; so that, being informed on one occasion that a fire had broken out in his house, he coolly replied, "Tell my wife; I don't meddle with domestic affairs." Charles Dumoulin—1500-1566—was another great jurisconsult of this era. His decisions were more respected than the decrees of Parliament, and the most learned lawyers deferred to his opinion. His religious views were very unsettled. In 1542 he became a Calvinist, afterwards adopted the Lutheran creed, and ended by returning to the bosom of the Romish Church. The brothers Pythou, of whom Pierre was author of the famous *Traité des Libertés de l'Eglise Gallicaine*, and Antoine Loisel, author of the *Dialogue des Avocats*, and *Institutions Coutumières*, also deserve mention; but the most illustrious lawyer of the period belonged not to Paris, but to Toulouse. We allude to the famous Cujas—1522-1590,—one of the most learned and acute of the numberless commentators on the Roman law. He left behind him seven folio volumes of treatises on different subjects relating to the civil and canon law. Alexander Scot, a native of Aberdeen, was among the most eminent of the disciples of Cujas. He was deeply learned both in the civil and canon law, and held the position of judge in the town of Carpentras. An excellent edition of the works of Cujas was published by him, and he also wrote a Greek grammar, which passed through a number of editions. He died in 1615.

During the sixteenth century, Protestantism made rapid progress in France, in spite of the severe measures adopted to extirpate it. In June 1559, Henry II. issued an edict pronouncing against Protestants "the penalty of death, without limitation or remission." The first sufferer under this monstrous edict was Anne du Bourg, an upright and fearless magistrate, who was put to death with circumstances of atrocious cruelty, merely for having spoken in his place in Parliament against the edict. He had for defenders the advocates Pierre Robert, François de Marilhac, and Antoine Dulac. On

the 24th August 1572 occurred the memorable and infamous massacre of St. Bartholomew, in which Taverny, Duterrieu, Robert, and some other advocates perished. Only one advocate, Jean Ferrier, is mentioned as having taken part in the horrors of the scene. Christophe de Thou, however, then first President of Parliament, and formerly a member of the Bar, approved of the massacre. "He made," says Père Daniel in his History of France, "a great eulogium upon the prudence of the King, who, on so important an occasion, had most usefully put in practice the maxim of his predecessor, Louis XI., that to know how to reign, one must know how to dissemble; that it was the only means which the King could adopt to anticipate a dangerous conspiracy formed against the whole royal house." Shortly after St. Bartholomew the formation of the famous Roman Catholic League took place, in which we find several advocates—such as Louis d'Orléans, Caumont, Menager, and Lemaistre—playing important parts. Louis d'Orléans and Jean Lemaistre were the most distinguished members of the Bar who supported the League, to which they became advocates-general. In 1589, the King and the Leaguers were at open war, and the former transferred the Parliament to Tours, notwithstanding which the Parliament at Paris continued its functions. In August of that year occurred the assassination of Henry III., which was speedily followed by the war between Henry IV. and the League. The honour of having restored peace and good government to France belongs, in a great measure, to Jean Lemaistre, Advocate-General, and afterwards first President to the League. He entered into a secret correspondence with Henry IV.; and, after having assured himself of his willingness to abjure Protestantism and of an amnesty, he communicated with several influential men, and having ascertained their sentiments, convoked an extraordinary meeting of the Court, over which he presided, where resolutions were passed condemnatory of handing France over to the rule of any foreign prince or power under pretext of providing for the safety of the Romish faith. In carrying out these resolutions, which risked the lives of all

who passed them, Lemaistre was zealously supported by another advocate, Michel de Marilhac, who, though a Leaguer, was strongly opposed to the designs of the Spaniards against the liberty of France. The surrender of Paris to Henry IV. was also powerfully aided by certain members of the French Bar; and, in 1594, the advocates and procurators took the oath of fidelity to the new sovereign, and renounced all leagues and associations. In May of the same year, the Parliament, which had been held at Tours and Chalons, during the troubles that had distracted the kingdom, returned to Paris, and the administration of justice resumed its regular course. In 1595, a famine, caused by the ravages of the civil wars, brought on a violent pestilence in Paris, and all who could fled from the city. But the court of Parliament and the Bar determined to act as they had formerly done during the plague of 1437. They remained firm at their post; and seventeen magistrates and twenty-two advocates fell victims to their devotion.

CHAPTER III.

The Parliament of Paris, its Constitution and Jurisdiction—The Public Prosecutor and the Bar—Organization of the Bar in the seventeenth and eighteenth centuries—Office of *Bâtonnier*—His duties, and those of the Council of the Order—Advocates during the Fronde—Noble conduct of Louis Servin in the reign of Louis XIII.—Parallel Case of the President of the Court of Session and James VI.—Antoine Lemaistre and Patru—Destruction of the Palais de Justice by fire, and its reconstruction by Jacques de Brosse—Revision of the Laws, and establishment of a Law-School in Paris under Louis XIV.—Foundation of the Library of the Parisian Bar.

In the present and in a subsequent chapter, we shall trace the history of the French Bar from the beginning of the seventeenth century, or reign of Louis XIII., to the great revolution of 1789. But before doing so we shall pause for a little, in order to examine the constitution of the Parliament of Paris, with which the Bar was intimately connected. The Parliament, though forming one great body, was divided into several departments. At its head was the Great Chamber, composed of the first President, of nine presidents —termed *présidents à mortier*, from the black velvet cap, ornamented with gold lace, which they wore—of twenty-five lay and twelve clerical councillors. The Crown officials in the Great Chamber consisted of the first Advocate-General, the *Procureur-Général*, two other advocates-general, and fifteen substitutes. The chief registrar had the rank of councillor. The presidents *à mortier* were all considered the substitutes of the first President. They took his place in his absence, and each of them might preside over the whole assembled Parliament. The most celebrated advocates practised before the Great Chamber. The first President, when necessary, fixed hearings where petty causes were decided. The younger advocates, and those of inferior standing in the profes-

sion, devoted themselves to these hearings, until their reputation entitled them to take part in the more solemn and important audiences. The Crown counsel held consultations in their department, to judge of affairs remitted to them from the Court, and even of disputes arising between the Chambers of the Parliament. Besides the Great Chamber, there were three Chambers of Inquest, each composed of two presidents and twenty-five councillors, and a Chamber of Petitions with two presidents and fourteen councillors. There was also *la Tournelle*, in which criminal affairs were settled, so called, either because the magistrates of Parliament sat there by turns, or because the judges who composed it held their sittings in a tower of the Palace termed Tournelle. The Court was held every three months, and was composed of twelve lay councillors of the Great Chamber, of two councillors of each of the Chambers of Inquest, and of three of the Chamber of Petitions. It thus appears that the members of the Parliament of Paris were not merely temporarily divided into different chambers for the administration of justice. They really occupied different positions; and although they were all councillors with the same prerogatives, the councillors of the Great Chamber regarded themselves as the true Parliament. All these judges, however, met together on great occasions. But, in the *lits de justice*, the presidents of the Chambers of Inquest, and those of the Chambers of Petitions, alone sat with the Great Chamber. The territorial jurisdiction of the Parliament of Paris was very extensive. Originally it extended as far as the royal authority, for the King himself was held to judge in his Parliament. Afterwards, it was considered to extend over whatever was not comprehended within the jurisdiction of the other Parliaments of France. But, in addition to this, it asserted its title to take cognisance of whatever appeared to affect the interests of the realm. Police, religion, finances, taxation, and many other matters, were all held to come within its province; so that there were few affairs of importance in which it could not interfere. The most valuable of its political privileges was its right of remonstrance against the

registration of laws. This right of registration and of remonstrance was one of the most glorious and important privileges of the ancient Parliament, and was always strenuously maintained and defended by the French Bar. It was a check upon despotism, to give to virtuous and independent magistrates the right of pointing out to their sovereign the evils of laws which he wished to promulgate, and of indicating the real wants of the country. The absolute refusal of registration claimed by the Parliament in extreme cases is more open to objection; and the ancient annals of France seem opposed to its right to place an absolute veto upon a law. The ordinance of Philip the Fair, of March 1302, which rendered the Parliament stationary, created a Court of Justice, *propter expeditionem causarum*, not a political or legislative body; and so with the ordinances of Philip the Long, Philip of Valois, and others which followed them. The claim of the Parliament of Paris to refuse the registration of laws gave rise to the famous *lits de justice*, which proved most injurious to the interests of the monarchy. In the early days of the French monarchy, the sovereign regarded himself as the supreme judge of his subjects, and when the Parliaments were made stationary, and the King came to preside in them, he occupied a throne termed *lit* or *lit de justice*; and especially when it was necessary to procure the registration of a law in spite of the opposition of Parliament, he came to hold a *lit de justice*. Thus, when it happened that the King compelled the registration of fiscal or other laws bearing severely upon the people, which were opposed by the Parliament as injurious to the public interest, the odium of such unpopular measures fell upon the sovereign, and the royal dignity was seriously compromised. After Louis XIV. assumed the government of France, the *lits de justice* became almost useless. The royal supremacy and the servility of Parliament made legislation go smoothly, and by the ordinance of 1667, the highest Court of the realm was formally deprived of the right of refusing the registration of laws.

At the point at which we have now arrived in the his-

tory of the French Bar, it is advisable to bestow a short time in considering the office of the public prosecutor (*le ministère public*), and the relations subsisting between him, his subordinates and substitutes, and the French Bar. The origin of the Bar and of *le ministère public* is the same. M. Gaudry traces the latter back to the officers who were termed *procuratores Cæsaris, patroni fisci,* whose duty it was to guard the interests of the Prince and of the treasury. But its true origin is coeval with the ordinance which established the Parliament of Paris as a fixed and stationary Court. It was then found necessary permanently to attach to it eminent men charged with watching over the good of the kingdom and the interests of the Prince, and these were originally selected from the ranks of the Bar. The office of advocate-general and *procureur-général* in the Parliament were of the highest importance and dignity. In point of rank, the first advocate-general occupied the foremost place; after him came the *procureur-général,* and then the other King's advocates. When it became customary to sell public appointments to defray the cost of foreign wars or supply the luxury of the Court, the office of *procureur-général* was often disposed of for a large sum to the highest bidder, and meritorious advocates ceased to be elevated to it as a reward for their services. The office of advocate-general was at first still more closely connected with the Bar than that of *procureur-général.* Previously to the fourteenth and fifteenth centuries, all the advocates of the Parliament of Paris called themselves advocates-general (*generaliter advocati*), meaning by that, advocates of the public. The King chose one among their number to watch over his interests, but the person so chosen was still so much regarded as a simple advocate, that we find him sometimes assigned by the Parliament as defender to parties along with the ordinary members of the Bar. Pierre d'Acy, Jean Desmarets, Jean Pastorel, Jean Lecocq, were thus appointed to act as counsel for the defence while holding the office of King's advocate. Even at a much later date, in the time of Francis I., the advocates of the King

were still simple advocates. In 1499, a law was made forbidding the Crown counsel to consult or to plead for parties against the Crown; but they might still freely exercise their functions as advocates in all cases in which the King was not interested. Even in the last days of the Parliament, the Advocate-General took pride in considering and terming himself the general or head of the Bar. We shall afterwards see, when we come to consider the modern French Bar, how completely the relations of the Bar and of the public prosecutor have been changed since the revolution; how they are now entirely separate, and often hostile; the former appearing as the champions of the free defence of the accused, and claiming the right of contending against the prosecution with equal arms; the latter assuming an air of superiority, striving to infringe and limit the immunities of defence, and attempting to exact from the Bar a degree of deference inconsistent with its independence, and altogether unworthy of its long line of glorious traditions.

We now return, after these necessary digressions, to the proper history of the Bar, from the beginning of the seventeenth century until the Revolution. We have seen that the most ancient regulations with regard to the Bar imposed upon its members the obligation of taking an oath, and of inscription upon a roll, in order to notify the names recommended to the confidence of the public and of the judges. But it is somewhat strange that more than 300 years elapsed after the date of these regulations before a formal and regular roll of the Bar was kept. In 1687 there is a roll, containing 366 names, said to have been recorded by the *bâtonnier*, or president of the Bar, in August of that year; but the name of the *bâtonnier* is given neither in the roll nor in the title, and it was not until 1696 that a regular roll of advocates began to be kept. From a pretty early period in its history, the Bar of Paris was accustomed to arrange itself by benches, in order that its members might meet and confer more easily. These benches were placed in the great hall of the Palais de Justice or in the adjacent galleries. In 1711, the advocates

formerly divided into eleven benches, were arranged in twelve. The first was composed almost entirely of seniors, and a few seniors were placed at the head of each of the others, after whom came the younger members, according to the date of their admission into the order. This organization, however, was found to be very imperfect, and in 1780 the fifth bench contained 101 advocates, the seventh 9, and the eighth 7; while the tenth had 95, and the twelfth 10. In 1781, a reform took place, and the order was divided into ten columns, each containing from fifty to sixty advocates. Each column elected two deputies, whose functions lasted for two years, and who might be re-elected. These deputies from the different columns, along with the former presidents of the Bar, constituted the council of the order, elected its presidents, watched over its roll, and maintained its discipline. The advocates were further divided into three classes—listeners (*avocats écoutants*), pleaders (*avocats plaidants*), and consulting advocates (*avocats consultants*). According to the ancient practice, the young licentiate from the university was presented to the court by one of the seniors of the Bar, and the president administered to him the oath to observe the laws, which he took standing upright, in his gown, with uncovered head, and right hand uplifted; in short, the ceremony of the oath seems to have been very similar to that at present observed at the Scotch Bar. A minute of the taking of the oath was then drawn up and signed by the senior, or, as he was termed in the olden times, the godfather of the young jurist. After taking the oath, the advocate might assume the gown, but he had not yet the right of pleading. He entered upon a period of probation, called *le stage*, which, by a decree of May 1751, was extended to four years. Upon the lapse of this period, his name was inscribed in the roll of advocates, upon the report of one of the chiefs of his bench or column. The pleaders (*avocats plaidants*) were highly respected, and had the right not only of appearing in the Courts of Parliament, but also in all the inferior judicatories. The mutual exchange of papers was considered one of the courtesies of

the profession; and, before pleading, the advocates were in the habit of making extracts from their briefs, containing the facts of the case, and communicating them to the opposite counsel. Pleading and consultation for the poor was one of the established rules of the ancient Bar, and every week nine advocates met in order to hold gratuitous consultations on the causes of the poor. The advocates, as at present, spoke with their heads covered, except when they pleaded before the King's Council. The consulting advocates—*advocati consiliarii* as they are termed in the old ordinances—held the highest rank at the Bar. They gave their advice to the pleaders, they regulated the affairs of families, and were intrusted with many matters of the highest moment. They had a bench set apart for them in Parliament, and were entitled to a seat on the *fleurs-de-lis*. The head or president of the French Bar was, and still is, termed *bâtonnier*. This title dates back to the middle of the fourteenth century; but for a long time after that period, it was an office of little importance. The name is derived from an ancient usage, according to which the staff (*baton*) of the banner of St. Nicolas, the patron of the confraternity of advocates, was carried at the head of the order in processions and ceremonies. He who carried it was termed *bâtonnier*. So late as 1602, however, the dean (*doyen*) held the first place at the French Bar, the *bâtonnier* only the second. The latter is mentioned for the first time as the head of the order in 1687; and it is only since July 1693 that he has had a legal title to be considered the head of the Bar. Formerly, the senior member of the order, by date of inscription on the roll, used to be elected *bâtonnier*. But as the great age of the advocate thus chosen often unfitted him from efficiently discharging the duties of an office requiring watchfulness and tact in no ordinary degree, the order determined to give up this principle of election. The *bâtonnier* is chosen for one year only; but since 1830 it has been usual, at the close of his first term of office, to re-elect him for a second year. The *bâtonnier* has the privilege of making his business appointments at his own residence, even with those

who are his seniors at the Bar. The title of dean (*doyen*) belongs to the senior member of the Bar inscribed on the roll; but it confers no other privilege than that arising from seniority. The *bâtonnier*, the former *bâtonniers*, and the deputies from the columns form a council, which meets in the Advocates' Library, and whose chief object is the preservation of the discipline of the order. The *bâtonnier* himself adjudicates upon trifling complaints against members of the Bar: but if the matter is of consequence, he reports it to the council. If the suspension of a member, or the erasure of his name from the roll, is to be deliberated on, the *bâtonnier*, after examining into the matter, reports to the Crown counsel, and their decision is registered. In the most important and serious cases, the Court is petitioned to give judgment in terms of the requisitions of the *bâtonnier*, and the conclusions of the Crown counsel. At the expiration of his term of office, the *bâtonnier* makes up the roll of advocates, with the assistance of the former *bâtonniers* and the deputies, and deposits it in the register before the 9th of May.

During the reign of Louis XIV., the eloquence of the pulpit attained a splendour never surpassed. Bossuet, Massillon, Bourdaloue, and other great preachers composed discourses destined to immortality; and in the domain of poetry, Racine and Corneille were not less illustrious. The eloquence of the Bar, too, soared to a higher flight than it had ever previously attained, though it contended on unequal terms with that of the pulpit, as the topics treated of in the latter are of importance to all men in all ages, whereas the greater number of judicial causes, relating only to private persons and special circumstances, possess in comparison only an ephemeral and passing interest. Occasionally, however, judicial eloquence also was distinguished by its grandeur and independence; for example, in that speech of Omer Talon's, where he said:—"The ears of kings are in their knees; they hear only those who prostrate themselves; the greatness of their position, which they know right well, and in which they are brought up, makes them impatient of the slightest contradiction." Boileau mentions

Patru, an advocate, among the best prose writers of the period; and Fourcroy, another advocate, was termed the French Hortensius, by those in the habit of listening to the eloquence of Bossuet and Bourdaloue. D'Aguesseau has pronounced a splendid eulogium upon the forensic orators of this period, though La Harpe speaks in somewhat contemptuous terms of their performances. The example of D'Aguesseau, in his eloquent but florid discourses upon the character and eloquence of the Bar, pronounced at the close of the seventeenth century, was upon the whole of evil effect, and introduced a pompous and declamatory style which is disagreeably conspicuous in the forensic oratory of the subsequent century.

The Parliament and the advocates of Paris played a conspicuous part in the troubles of the Fronde during the minority of Louis XIV. and the ministry of Mazarin, the subtle and intriguing, but weak successor of Richelieu. In 1645, several edicts were presented to Parliament, against which the members of that body strongly remonstrated. The reply of the Chancellor Séguier to their statement, that their consciences forbade them to register the edicts, is worth recording: —"There are two consciences," said the Chancellor: "one a State conscience, which must be accommodated to the necessity of affairs; the other, a conscience relating to our private actions," —certainly a highly convenient doctrine, and one admitting of great latitude of interpretation. In 1648, a *lit de justice* was held, but the edicts presented for registration were still strenuously opposed; Omer Talon, in opposing them, used the following eloquent and courageous words:—"Sire," he said, "for ten years past the country has been ruined, the peasants have been reduced to sleep upon straw, having seen their furniture sold for the purpose of defraying taxes to maintain the luxury of Paris, which they are unable to pay; millions of persons have been compelled to subsist upon bread made of bran and of oats, and have no other consolation but their innocence. These unfortunates have neither goods nor land, nothing but their souls, which they retain only because they cannot be sold by auction." What a terrible picture of the state of France, of

the overgrown luxury of the capital, and the misery of the provinces—apoplexy in the head, paralysis in the extremities—do those words of the great Advocate-General present to us! Two of the most prominent members of the Parliament—Blancménil and Broussel—were soon after arrested and imprisoned by the Court for their resistance to the edicts. But the populace flew to arms and demanded their release; and then was made the first essay in barricades, which have since played so important a part in the numerous revolutions of France. On this occasion, the Court was compelled to yield and release the prisoners; but the struggle at the barricades was the commencement of the strife of the Fronde which distracted France for more than five years. The most remarkable circumstance connected with the Bar that occurred during the Fronde was the exile of Omer Talon by Cardinal Mazarin, and his speedy return, forced upon the reluctant minister by the firmness of the advocates. When that upright and able magistrate gave up his functions, the Bar refused to appear and plead, and nothing could shake their resolution. The Cardinal then issued a decree, and procured its registration, empowering the *procureurs* to plead, even in appeal cases, instead of the advocates. But Pomponne de Bellièvre, the first President, represented to the King that, as the *procureurs* were but imperfectly acquainted with questions of law, the causes would be but ill conducted. One advocate only, named Rosé, yielding to the influence of Fouquet, then *Procureur-Général*, made his appearance to apply for judgments by default. The First President was obliged to pronounce them, but he forbade the registrar to give extracts of them. It seemed as if the long stoppage in the administration of justice in 1602, previously noticed, was about to be renewed. The populace began to murmur, and affairs wore such a threatening aspect that Mazarin was at last compelled to request Omer Talon to resume his functions. Upon this, the advocates immediately returned to their duties; but the unhappy Rosé was regarded as a cowardly deserter, with whom his brethren could hold no communion, so that

he was forced to quit the Bar, and soon after died of grief.

One of the most splendid instances of civil courage during the Fronde, was that given by Mathieu Molé, first President of Parliament, who had incurred great odium in certain quarters for the share he had taken in bringing about the peace of Ruel. At the moment when that peace was about to be signed, those opposed to it stirred up a portion of the populace against the Parliament; and while they were deliberating about the ratification of the treaty, the palace was surrounded by an infuriated mob, who broke in upon the deliberations, and attempted to intimidate the members by the most terrible threats. The President especially was menaced with death. But he preserved the most perfect calm in voice and manner, and refused to attempt to make his escape. "The Court," he exclaimed, "never conceals itself; if I were assured of death, I would not be guilty of that cowardice, which would only embolden the seditious; besides, they would easily find me in my house, if they knew that I had feared them here." Then, after having proclaimed the ratification of the treaty, he descended into the midst of the excited crowd, and proceeded through them with a firm step and fearless look, regardless of their cries and menaces. One of them clapped a pistol to his head. Molé looked the ruffian in the face and coolly said to him, "When you have killed me, I shall need only six feet of earth." Cardinal de Retz, in his memoirs, thus speaks of this grand act:—"If it were not a species of blasphemy to affirm that there had been any one in our time braver than the great Gustavus and the Prince of Condé, I would say that it had been Molé, the first President. He preferred the good of the State to everything, even to that of his family, to which he appeared to be much attached."

Even after the majority of Louis XIV., the Parliament opposed the royal authority, removing it from Paris to Pontoise, and, in concert with the Duke of Orleans and the Prince of Condé, protested against the orders of the King,

though several times repeated; and in this opposition they were, as usual, warmly supported by the Bar. At a later period, Louis took the unwarrantable and unprecedented step of suppressing the registers of Parliament from 1648 to 1652, in order to destroy all trace of opposition to his supreme authority. He certainly encountered no further check during his long reign, for the Parliament passed, in a somewhat undignified manner, from extreme independence to extreme servility, till it became a mere passive instrument of the royal will. In 1693, in conformity with an ordinance of Parliament, the first roll of advocates, containing 240 names, was made up and deposited in the register; and ever since that date it has been regularly continued. For a long time the members of the Bar pleading before the courts had the title of *Sieur;* but, in 1699, the Court decided that for the future they should be called *Maître,* the title which they still bear.

We shall now proceed briefly to notice some of the more distinguished advocates belonging to the French Bar during the course of the seventeenth century. Denis Doujat, the first *bâtonnier* whose name has been preserved, enjoyed so high a reputation that he was elected batonnier in 1617, when only thirty-nine years of age. Another advocate of the same name, Jean Doujat, was distinguished as a jurisconsult. He was a member of the French Academy, and author of several works, of which the principal are a history of the canon law and a history of the civil law. He died in 1688. Louis Servin, first simple advocate, and subsequently Advocate-General, was highly distinguished for his eloquence and for his resolute and independent spirit. When Louis XIII. came to hold a *lit de justice* in February 1620, in order to compel the registration of certain edicts which the Parliament had declined to register, Servin addressed him in the following plain-spoken terms:—"Sire, we hold it very strange that your Majesty proceeds to the registration of our edicts by so extraordinary a method as to come to your Court of Parliament, contrary to the ancient forms preserved from time immemorial. . . . To-day, seduced by evil councils, you come into your

Court, to deprive us of the means of deliberating with freedom of conscience. . . . If the presence of your Majesty compels us to pass beyond all these considerations, it shall be under protestation." Six years afterwards, Louis held another *lit de justice*, to procure the registration of eight edicts, which had in view the creation and revocation of certain offices, and the establishment of taxes upon a number of articles of consumption. Cardinal Richelieu, the author of the edicts, was present; but Servin, who spoke for the *Procureur-Général*, was not on that account the less free in his remonstrances. He had just pronounced the words, "You will acquire a more desirable glory by gaining the hearts of your subjects, than by subduing your enemies," when he was seized with apoplexy, and fell expiring at the feet of the King, and in the presence of the Parliament, on whose behalf he was protesting against the royal edicts. He died on the field of honour, in March 1626.

A parallel to this noble conduct of Servin may be found in the spirited resistance of the judges of the Scottish Court of Session to James VI., about twenty years previously. A well-known minister, the Rev. Robert Bruce, had been deprived of his stipend by the King. He sued the Crown before the Court, and obtained a judgment in his favour. The King appealed, came to the Court in person to press his suit, and commanded the judges to give a decision in his favour. The President, Sir Alexander Seton, then rose and said,—"My liege, it is my part to speak first in this Court, of which your Highness has made me the head. You are our King; we your subjects, bound and ready to obey you from the heart; and, with all devotion, to serve you with our lives and substance; but this is a matter of law, in which we are sworn to do justice, according to our conscience, and the statutes of the realm. Your Majesty may, indeed, command us to the contrary; in which case I, and every honest man on this Bench, will either vote according to his conscience, or resign and not vote at all." Another of the judges, Lord Newbattle, then rose and observed, "That it had been spoken in the city, to his

Majesty's great slander, and theirs who were his judges, that they dared not do justice to all classes, but were compelled to vote as the King commanded; a foul imputation, to which the lie should that day be given; for they would now deliver a unanimous opinion against the Crown." James in vain threatened and remonstrated. The judges, with only two dissentient voices, pronounced a decision in favour of Mr. Bruce, and the baffled monarch had to leave the Court, "muttering revenge and raging marvellously."

Antoine Lemaistre, born in 1608, and admitted to the Parisian Bar in 1629, was one of the most brilliant and successful pleaders of the seventeenth century; though, like all the advocates of the period, he yielded too much to the vice of interlarding his speeches with quotations from the poets and philosophers of antiquity, from the Bible, and from the Fathers of the Church. He was descended from two famous families of the robe, being the great-grandson of Simon Marion, and the grandson and god-child of Antoine Arnaud. At twenty-one, he pleaded causes with an eloquence and success that attracted general admiration, and his rare merits gained for him the office of Councillor of State and a pension, at the age of twenty-eight. M. Séguier, the Chancellor of France, was his warm friend and patron, distinguished him beyond all his brethren at the Bar, and offered him the post of Advocate-General to the Parliament of Metz. This, however, was refused by the young advocate, who preferred the career of the Bar, in which, in spite of his youthful years, he had acquired a renown surpassing that of the famous advocates from whom he was descended. "On the days when he pleaded," says one of his biographers, "the preachers, out of prudence, and fear of addressing empty benches, made arrangements not to occupy their pulpits, and flocked to listen to him. The great Chamber of Audience was too small to contain all his hearers." Modern critics have made light of the speeches of M. Lemaistre, and justly censure them as overloaded with quotations and allusions, often far-fetched and ridiculous; as subtle, diffuse, and bombastic. Yet his

eloquence was universally acknowledged by his contemporaries. It fixed the attention of Richelieu. It was the boast of the Parliament, the admiration of the public. It was studied, even by the clergy, as a model; so that if he be the most eloquent man who most successfully addresses himself to the taste and the feelings of those who hear him, the praise of eloquence must undoubtedly be accorded to Lemaistre, in spite of the indifference and fatigue which we now experience in reading his speeches. His forensic career was but a brief one; and it was while everywhere admired and sought after; while enjoying the special favour of the Chancellor, which seemed to place the highest honours within his grasp at no distant date; that he determined, at the age of twenty-nine, and at the summit of fortune, to throw the world behind him and to repair to Port Royal to lead a life of penitence and devotion. The immediate cause of this remarkable resolution seems to have been the impression made upon him by the death of his relative Madame d'Andilly, and by the prayers offered up and exhortations addressed to her during her last illness by M. de Saint Cyran, Director of Port Royal. He intimated his resolution to M. de Saint Cyran, who, though filled with joy at the thoughts of receiving so illustrious a penitent, nevertheless counselled him not to be too precipitate in so important a matter, and at least to wait for the vacation of the courts, in order that his departure from the Bar might occasion less comment and surprise. To most of his friends his retreat from the brilliant career that lay before him seemed the height of folly. The Chancellor believed that his favourite advocate had gone mad; and even his uncle, M. Henri Arnaud, Abbot of Saint-Nicolas d'Angers, advised delay and reconsideration. But all was in vain. The die was cast, the cost counted, and Antoine Lemaistre for ever abandoned the Bar. When the courts met, the disappearance of their chief ornament created a lively sensation, and various rumours spread abroad; but the truth was speedily made known by the following beautiful letter addressed by the great advocate to his friend and patron the Chancellor of France :—

"My Lord, God having touched my heart some months ago, and made me resolve to change my life, I have thought that I should fail in the respect which I owe you, and that I should be guilty of ingratitude, if, after having received from you so many extraordinary favours, I carried out so important a resolution without acquainting you with it. I quit, my Lord, not only my profession, which you have made very honourable and advantageous, but also all that I could hope or wish for in this world; and I retire into solitude to spend the rest of my life in penitence and in the service of God, after having employed ten years in the service of men.

"I do not think, my Lord, that I require to justify such a course of action, since it is good in itself, and necessary for such a sinner as I am; but I think that, in order thoroughly to enlighten you with regard to all the reports concerning me which may be spread abroad, I ought to discover to you my most secret intentions, and tell you that I renounce ecclesiastical preferments as absolutely as civil; that I not only wish to change the object of my ambition, but also to give up ambition itself; that I am resolved not to assume the office of the priesthood and not to receive benefices, still more strongly than I am resolved not to return to the mode of life which I have left; and that I should consider myself unworthy of the mercy of God, if, after so many infidelities committed against Him, I imitated a rebel subject, who, instead of striving to propitiate his prince by submission and by tears, should be presumptuous enough to attempt to raise himself to the first dignities of the realm.

"I know well, my Lord, that, in the age in which we live, men will consider that they put a favourable construction on my conduct if they merely accuse me of being too scrupulous; but I hope that what will appear madness to men will not appear so in the eyes of God; and it will give me consolation in death to have followed the purest rules of the Church and the practice of so many centuries. But if this resolution is the result of my having less intelligence or more timidity than others, I prefer that respectful and timid ignorance, which has

been the creed of the greatest men of Christendom, to a bolder and, for me, more dangerous knowledge. Come what will, my Lord, I only ask of God the grace to live and to die in His service, to have no further intercourse, either by word or writing, with this perishing world, and to pass my life in solitude, as if I were in a monastery.

"Behold, my Lord, a complete and true declaration of my feelings. The extreme obligations which I owe to you do not permit me to make a less express or less faithful one; and the honour of so special a good-will as that which you have shown me, compels me to assure you that I no longer look for fortune except in the eternal world, in order that your great affection for me may no longer induce you to seek it for me in this passing scene. But, however solitary I may be, I shall always retain the grateful remembrance of your favours, and I shall be not less in the desert than I have always been in the world, your very humble and obedient servant, ANTOINE LEMAISTRE."

M. Lemaistre did not lose his activity of mind in his retreat at Port Royal, and especially signalized himself as a teacher of youth in the schools belonging to it. The famous Racine and Du Fossé were among his pupils; and the latter, in his *Mémoires*, gives the following pleasing account of his instructor:—"I well remember that, mere scholar as I was, he often took me with him into his apartment, where he gave me most valuable lessons both in literature and religion. He read, and made me read, various passages from the poets and orators, and made me remark all the beauties both of thought and composition. He also taught me to pronounce properly verse and prose, which he himself did admirably, having a charming tone of voice, with all the other qualities of a great orator. He likewise gave me many rules for translating well and for facilitating my progress in my studies."

The retirement of M. Lemaistre lasted for twenty years; but, even in retirement, he did not seek repose but combat. He had himself to vanquish, and he applied himself to overcome the

desires of the flesh and the aberrations of the spirit with the most invincible determination. His austerities and self-humiliations were unceasing; and he died prematurely, worn out by the severity of his penitence, before he had attained the age of fifty.

Patru, another great lawyer of the seventeenth century, takes a high rank among the improvers of the French language, and, in his own day, he was an authority, almost an oracle, on all matters connected with eloquence, both at the Bar and in the French Academy. Boileau himself—so great in everything relating to language and taste—bowed before him. He was born in Paris in 1604, and was remarkable from a very early age for the beauty of his person and the winning grace of his manners. His mother was the widow of a rich *procureur-au-Parlement;* her great ambition was that her son should become a celebrated advocate; and with the view of giving him self-possession and fluency of speech, she used often to invite some of her neighbours, before whom she made him give an account of what he had been reading. The boy narrated with infinite grace and spirit, so that his audience went away charmed; and, at last, so many applied for admission to these recitations, that Madame Patru was compelled to give them up. But Patru did not cultivate his great natural gifts to the best advantage. Throughout life he was indolent, fond of pleasure, and self-indulgent. He only studied when he had nothing else to do, and abhorred steady application to business. When nineteen years of age, he made a journey to Italy, and in Piedmont formed the acquaintance of D'Urfé, author of the pastoral romance *l'Astrée*, and then the most fashionable author of the day, with whom he became very intimate, and who introduced him to the gay world and to the Court of Savoy. On his return from Italy, Patru, then in the very flower of youth, singularly handsome in person and winning in manners, passed his time partly in studying the works of Cicero, and partly in making love to all the pretty women who came in his way; and some curious stories of the *amourettes* of this period of his life have been handed down

to us by his friend Tallemant des Réaux. At length he joined the ranks of the Bar, and made his *début* with great success, especially distinguishing himself by an elegance and precision of language then very unusual in professional pleadings. The orations which he published at a late period of life, in 1670, have evidently been touched and retouched with the utmost care, but the process of polishing has been carried somewhat too far, at least they now seem rather dry and threadbare. As a lawyer, Patru was never remarkable, and his business at the Bar was neither a large nor a lucrative one, having more show than substance about it. Nevertheless, his part was a distinguished one, for he ranks as one of the great reformers and improvers of the French language. The labour which he devoted to this was unceasing. He made a translation of Cicero's speech for the poet Archias; and is said to have spent four years before he was able to satisfy himself with the rendering of the somewhat obscure opening sentence of the oration. During the Fronde, he attached himself to the party of Cardinal de Retz, who had recourse to his pen to answer a pamphlet which the poet Sarasin had launched against him. When Queen Christina of Sweden visited Paris in 1656, the different bodies in the State vied with each other in offering her their respects, and Patru had the honour of being chosen by the French Academy as their mouthpiece. The speech which he delivered is somewhat inflated, and its praises of the Swedish Queen appear to us ridiculous in their excess. But such was the fashion of the times. Patru had belonged to the Academy since 1640, and when admitted he made a speech of thanks so graceful, flattering, and agreeable to the learned body to whom it was addressed, that they thought a practice so admirably commenced ought by all means to be continued, and thus the honour of having inaugurated the *Discours de réception* of the Academy unquestionably belongs to Patru. There is a pleasant anecdote belonging to his old age, which well illustrates both his independence of character and his readiness of speech. On the death of the Academician Courart in 1675, a great

lord, with no other title but birth, aspired to the vacant seat in the ranks of the Academy. The Academicians were extremely embarrassed, not wishing to admit the noble, and not daring to refuse him, when Patru got up and restored their failing courage by relating the following apologue:—"An ancient Greek had an admirable lyre; he broke one of its cords; instead of replacing it by one of catgut he gave it one of silver, and the lyre with its silver cord ceased to utter harmony." The hint was taken and the lord was excluded. Patru did not approve of the plan or the execution of the Dictionary of the Academy, but he took an active part in carrying out that of Richelet, for which he wrote a number of articles when upwards of seventy years old, and his letters of the same period are full of liveliness, spirit, and grace. His old age was oppressed by poverty, uncomplainingly and nobly borne. He was obliged to retire to a mean house in the Faubourg Saint-Marceau, his books became the prey of a severe creditor, and he owed their redemption to the generosity of Boileau. His friends often wished to relieve his wants, but he always refused their offers with a quiet dignity, and retained to the last his happy temper, amiability, and frankness. In religious matters, he was something of a free-thinker; and one of the best things recorded of him is the answer which he made to the famous Bossuet, who had gone to see him during his last illness:—"Sir," said the prelate, "you have hitherto been regarded as a latitudinarian; think of undeceiving the public by sincere and religious conversation." "It is more to the purpose for me to be silent," answered the dying Patru; "we only speak in our last moments through weakness or vanity." His death took place on 16th January 1681, at the age of seventy-seven.

In 1618, the greater part of the Palace of Justice was destroyed by a fire; but the King gave a commission to the celebrated architect, Jacques de Brosse, to repair the damage done by the conflagration, and to him is due the construction of the grand hall, 250 feet in length, and 90 in height—now known as the *Salle des pas perdus*—which serves as a pro-

menade for the pleaders, and as a place of resort for all the *habitués* of the Palace. We have already mentioned Charles Bonaventure Fourcroy, born at Noyon in 1626, and admitted to the Bar in 1645, of which he became one of the most distinguished ornaments. It was said of him, by an excellent judge, "The Bar has perhaps never had, in the same person, and in so high a degree, the science of the jurisconsult and the talents of the orator." He died in 1691. Pageau and Erard, two of his contemporaries, occupied a position at the Bar only second to that of Fourcroy. Among the great judges of this epoch, who originally belonged to the Bar of Paris, we may mention Achille du Harlay, admitted to the Bar in 1656, and raised to the dignity of first President of Parliament in 1689; François-Michel Letellier, advocate in 1657, and afterwards Minister and Secretary of State; Michel Chauvillart, who arrived at the same honours; and Chrétien de Lamoignon, admitted to the Bar in 1693, and made President in the Parliament of Paris in 1706. Nicolas Boileau—a great name in the field of literature—deserves also to be noticed. He was inscribed on the roll in 1656, but made a very poor appearance as a pleader, and soon afterwards left the Bar.

We have already seen how important a part was taken by the members of the Bar, during the sixteenth century, in introducing order and method into the confused mass of consuetudinary law existing in various parts of France. Nor were their labours less conspicuous and useful in the seventeenth century. In 1665, a council, specially charged with the reformation of the laws, was formed by Louis XIV., upon the suggestion of Colbert. It was composed of several eminent magistrates and councillors of state, and was directed to take the opinion of certain eminent advocates, of whom the King indicated Barthélemy Auzannet, Jean Marie l'Hoste, Louis-Philémon Ragueneau, Jean de Gomont, Antoine Bilain, and Joseph Foucault. This council, and the chosen advocates, held conferences twice a week, and sat for fifteen months. The result was an ordinance, drawn up by Hotman, Master of

Petitions, and Auzannet, which was submitted to Parliament in January 1667; and, after receiving some modifications, passed into a law in April of the same year. It related principally to the form of procedure, and was rapidly followed up by other ordinances, regulating a variety of important matters in civil and criminal law. But the injustice and severity of the latter, as regulated by the infamous ordinance of Villers-Cotteret, were not in any way mitigated; and the proceedings still continued to be secret, and the accused to be denied the right of defence by counsel. The ordinances on the French marine, and on the Colonies, suggested by the genius of Colbert, were chiefly prepared and drawn up by advocates; so that, in every part of the revised legislation, their aid was regarded as indispensable. But the revision of the laws was not the only benefit conferred on the science of jurisprudence by Louis XIV. In 1679, he established a school of law in Paris, where, though the civil law had been privately taught, there had previously been no recognised and official institution for imparting legal instruction. Several distinguished jurists flourished during this reign; the greatest of whom was unquestionably Jean Domat, born at Clermont in Auvergne in 1625. In his youth he was long resident in Paris, was closely allied with the Port Royalists, and received the last sigh of Pascal, whose intimate friend he was. The first edition of his great work on the civil law appeared in 1689. It is still an authority, and affords an admirable example of the fundamental principles of Roman law applied to French manners and legislation. Domat died in Paris, in 1696, at the age of seventy. It is to an advocate of this century—Etienne Gabriac de Riparfonds—that the Bar of Paris owes the foundation of its library, and the institution of the admirable custom of the conferences of doctrine held therein. Riparfonds possessed a noble collection of books, and this he bequeathed by will to the Bar,[1] at the same time expressing his desire "that his brethren should meet together

[1] The library belonging to the Faculty of Advocates in Edinburgh was founded about the same time.

from time to time in the place where the library should be deposited, in order to discuss points of law." The library was formally opened in May 1708, in presence of d'Aguesseau, *Procureur-Général*, MM. Lenain, Joly de Fleury, and Lamoignon, advocates-general, and of Nivelle the *bâtonnier*. Mass was celebrated by Cardinal de Noailles, and an oration was pronounced upon Riparfonds, who is termed "the most famous consulting counsel of his time." The first conference was held in December 1710, it having been previously agreed that the discussions should take place on questions sent to the benches by the *bâtonnier* some days before, in order that every one might come prepared. They were held thereafter every fortnight, and many great advocates and judges honoured them with their presence. Thus the advocates-general Lamoignon, de Chauvelain, and Joly de Fleury were frequent attenders, and the *Procureur-Général* d'Aguesseau not only attended, but proposed questions, and took part in the discussions. M. Bellart, one of the most eminent advocates of the present century, thus eloquently describes these conferences, at which, in addition to the discussions on points of law, gratuitous consultations were frequently given to the poor. "It was there, in these fortnightly reunions, that young aspirants learned how to regulate their forward ardour by the advice of the old chiefs of the bar, who showed how zeal must be tempered by modesty, and the will submitted to the yoke of a salutary discipline; it was there that glory and probity, the brilliant qualities, and the modest virtues, blended in the most touching fraternity, rendered homage to their mutual success, of which every one was proud and no one jealous, because it was the common property of all. It was there that talent itself would not have ventured to seek absolution for having violated the law of duty; and there that we early learned that horror of acting dishonourably which became the rule of the rest of life. These reunions presented the affecting spectacle of friendly rivals, suspending their debates to lavish upon each other a sincere courtesy, champions illustrious for their many triumphs, conferring on equal terms even with

mediocrity, and raising it to their own level. . . . We there beheld orators intrusted with the most important interests, and jurists devoted to the most abstruse studies, forgetting both their long array of clients and their profound science, to hear with frankness, and disentangle with patience the diffuse and often obscure narratives of peasants, women, and all sorts of poor people, who left them enlightened as to their rights, better disposed to come to a peaceful understanding, and not unfrequently with their necessities relieved."

CHAPTER IV.

Eminent lawyers born in the latter half of the seventeenth century, D'Aguesseau, Normand, Cochin—Dispute between the Bar and the President of the Court—The Bar sides with the Parliament in opposing the registration of certain edicts of the Regent Orleans—Erasure of an advocate from the roll of the order—The Bar defends the liberties of the Gallican Church against the Bull *Unigenitus*—Eminent advocates and jurists of the eighteenth century, Gerbier, Elie de Beaumont, Pothier—Causes that led to the Revolution of 1789—Remarkable foreshadowing of it by the Advocate-General Seguier—Part taken by the Bar in the process against the Jesuits—Opposition of Parliament and of the Bar to the King and the Chancellor Maupeou—Suppression of the old Parliament, and substitution of the Maupeou Parliament—Five hundred and forty-four advocates voluntarily abandon the exercise of their functions—The old Parliament restored by Louis XVI.—Disputes between the King and the Parliament—Meeting of the States-General—Suppression of Parliament and of the Bar by the National Assembly.

In the present chapter we continue the history of the French Bar from the close of the seventeenth century until the French Revolution, which swept away the old *régime*, including the ancient Parliament and the order of advocates, which had been so long and so intimately associated with it. A great name, not absolutely belonging to the French Bar, but closely connected with it, meets us towards the close of the seventeenth century. That name is D'Aguesseau, than whom no one has ever understood and appreciated better the utility and importance of the profession of advocate, or discoursed more eloquently upon its duties, privileges, and requirements. This eminent man was born at Limoges in 1668, and was appointed King's Advocate at the Châtelet of Paris at the early age of twenty-one. Soon afterwards he became Advocate-General to the Parliament, was made *Procureur-Général* when only thirty-two, and Chancellor of France at forty-eight—a success almost as rapid as that of the celebrated Grotius,

who pleaded at the Bar when only seventeen, and was made Attorney-General of the Netherlands at twenty-four. D'Aguesseau's first discourse, delivered as Advocate-General, at the age of twenty-five, has for its subject the independence of the advocate, and is throughout a magnificent and elaborate eulogium upon the Bar. In it occur these words, so often quoted:—"It is an order as ancient as the magistracy, as noble as virtue, as necessary as justice; it is distinguished by a character which is peculiar to itself, and it alone always maintains the happy and peaceful possession of independence." Of the advocate he says,—"Free, without being useless to his country, he devotes himself to the public without being a slave to it, and condemning the indifference of the philosopher who seeks independence in indolence, he laments the misfortune of those who only enter upon public duties at the expense of their liberty." D'Aguesseau pronounced another famous oration in 1699, on "The Causes of the Decay of Eloquence," which is deserving of attentive perusal; and, in 1716, composed instructions for the use of his son, which treat specially of the science of law, and in which he particularly recommends the study of the pleadings of the most eminent counsel, and attendance at the conferences of the order of advocates, as the best means of forming a young orator and a young magistrate.[1] D'Aguesseau was a rare example of the happy union of great virtues and great

[1] D'Aguesseau's principal works are three orations on the occasion of the opening of the sittings of Parliament in 1693, 1695, and 1699. The subjects are *L'Independence de l'Avocat; La Connoissance de l'Homme;* and *Des Causes de la Décadence de l'Eloquence.* There are besides nineteen *Mercuriales,* or speeches connected with the administration of justice, delivered by him at the meeting of the Parliament after the vacations. These extend over a period of seventeen years,—from 1698 to 1715,—and give a complete and beautiful picture of the character and duties of a wise and upright magistrate. The following are their titles:—*L'Amour de son Etat; La Censure publique; La Grandeur d'Ame; La Dignité du Magistrat; L'Amour de la Simplicité; Les Mœurs du Magistrat; De l'Esprit et de la Science; L'Homme public, ou l'Attachement du Magistrat au Service du Public; L'Autorité du Magistrat, et sa Soumission à l'Autorité de la Loi; La Justice du Magistrat dans sa vie privée; La vraie et fausse Justice; Le Magistrat doit se respecter lui-même; La Science du Magistrat; L'Attention; La Fermeté; L'Emploi du Temps; La Prevention; De la Discipline; L'Amour de la Patrie.*

talents. He was an admirable writer, a successful orator, an independent and upright magistrate. "We admire in his discourses," says an accomplished French writer, "an eloquence justly proportioned to the subjects of which it treats; sublime in the most elevated; communicative and interesting in the simplest; a select erudition, a profound logic relieved and adorned with all the graces of rhetoric."[1]

We now come to two of the greatest names of which the French Bar can boast—those of Normand and Cochin, both born in the year 1687. They were contemporaries of D'Aguesseau, and were inscribed on the roll of the Bar, Cochin in 1706, and Normand in 1707. Normand rapidly achieved a high position, and was surnamed the "Eagle of the Bar." In person and countenance he was eminently handsome, his gestures were graceful, and his voice sweet and sonorous. All Paris flocked to hear his pleadings, and the highest personages sought the honour of his acquaintance. He lived like a nobleman; and his house, furniture, and equipages were of the most luxurious description. During the vacations, he was in the habit of entertaining at his country house men of rank, philosophers, the most distinguished members of his own profession, and the most famous artists. In short, he led a life hitherto unknown in an advocate, and far removed from the simplicity and frugality of the ancient Bar. Professionally, however, he was not only one of the ablest but one of the most honourable and conscientious of men. Nothing would persuade him to take up a cause which he believed to be unjust, and his scru-

[1] Another French critic, M. de Morlon, thus characterizes the pleadings of D'Aguesseau:—"Une éloquence mâle caractérisoit ses discours; son imagination savoit tout embellir; les matières les plus sèches acquéroient des agrémens entre ses mains. Ses plaidoyers étoient des modèles; clair et méthodique dans le plan, vif et pressé dans le raisonnement, exact et juste dans les preuves, pur et precis dans la diction, il proportionnoit les ornements à la qualité des causes; il prodiguoit à la fois et les fleurs de Flechier, et les foudres de Bossuet; l'erreur, la fraude, et l'artifice y étoient dépeints avec des couleurs si odieuses, qu'elles excitoient l'indignation de l'auditeur; tandis que la vérité, la candeur et la simplicité s'y montroient avec tant d'évidence et de graces, qu'elles saisissoient d'abord l'esprit des juges, et entraînoient leurs suffrages: la justice sembloit s'expliquer elle-même par sa bouche."

pulous accuracy with regard to what he asserted was so well known, that the judges used to say of him, "Believe a fact at once when Normand attests it." Normand was a good writer and distinguished for his literary attainments; and Bussy-Rabutin, Bishop of Luçon, presented him to the French Academy, who unanimously received him as a candidate for admission into their body. It was, however, the custom, then as now, that the candidate should call upon the members of the Academy to solicit their votes; and Normand considering this practice to be unworthy of the dignity o the French Bar, gave up the honour which it was proposed to confer upon him. He died in 1745, at the age of fifty-eight.

Still more celebrated than Normand was Cochin, inscribed on the roll of advocates at the early age of nineteen. His private life—unlike that of his great rival—was quiet and retired, and his religious opinions tended towards Jansenism. He was a splendid pleader, and very soon, after his first appearances at the Bar, acquired a high reputation and an extensive practice. In one of his earliest causes before Parliament, the opposite counsel—Julien de Prunay, one of the most powerful debaters at the Bar—had spoken first, but after hearing Cochin's speech he turned to Aubray, who was charged with the reply, and said, "It is for you to see how you will fight out your case a week hence; for me, I confess I could do nothing but sob. Here is a man who comes up to my ideal of eloquence. I believe him raised up to teach us how far its perfection can be carried." Of the same speech Normand remarked to Cochin, that he had never heard anything so eloquent. To which Cochin happily and gracefully replied, "It is evident, sir, that you do not belong to the number of those who hear themselves." Cochin died in 1747, at the age of sixty, and, in 1749, his principal works were published in six volumes 8vo. Nothing can prove more strongly the respect in which he was held by his contemporaries than the terms in which the approbation of the censorship was given. "The works of this great man are a debt due to posterity for

the honour and instruction of the Bar, of which he was the chief and the model."

One of those interferences by the Court with the dignity of the order, which the French Bar was ever so prompt to maintain, took place in the winter of 1717. It arose in the following way:—An advocate named Sicault, who should have pleaded at an audience of the criminal Court, was detained before the Parliament, and kept the judges waiting for some minutes; and when he at last appeared, the President informed him that the Court had taken into consideration the propriety of interdicting him from the exercise of his functions, and it was through special favour that they had not done so. Upon this, the advocates present immediately withdrew from the Court, and Arrault, then *bâtonnier*, along with two seniors, called upon the President, and stated to him the dissatisfaction of the Bar with this unjust reprimand, and their determination to practise no more before his Court unless he would make a public apology to the order. The President saw that he had gone too far, and promised that, at the next sitting, he would make an ample explanation. Accordingly, at the time appointed, Sicault presented himself before the Court, and explained what had taken place on the former occasion, after which the President said to him,—"The Court will always put the best construction on what you may state. It is convinced of your zeal and of your attention to fulfil the duties of your office; it is convinced that your conduct is regular; it will never fail to show, on all occasions, the consideration and esteem which it entertains towards your order in general, and to yourself in particular."

The Bar was shortly afterwards engaged in a more serious and important dispute, in which it sided with the Parliament in its resistance to the edicts whereby the Regent Orleans had bestowed extraordinary and dangerous privileges upon the Scottish financier, Law. In 1720, the Regent, in order to restore the finances ruined by the system of Law, and the abuse of that system by parties in power, proposed an edict, granting to a company the monopoly of the trade with India.

This edict Parliament refused to register; whereupon the Regent banished the Parliament to Pontoise, and the Palace was taken possession of by musqueteers, while the councillors received their letters of exile. The order of advocates, as usual, adhered to the Parliament, and refused to exercise their functions at Pontoise. In vain the *Procureur-Général* wrote a letter addressed to Babel, the *bâtonnier*, commanding them to plead at Pontoise. They answered unanimously, "that neither Babel nor the advocates were bound to obey the orders of the *Procureur-Général;* that the exercise of their functions was free, and also habitual in the place where the Parliament was settled and free." At length, the Parliament was recalled to Paris in December 1720, and resumed its duties, as if no interruption had taken place. The first President warmly expressed his gratitude and that of the Parliament to the members of the Bar, stating "that it would have been difficult not to appreciate their conduct; that it had received the applause which it deserved, and that it had even surpassed what might have been expected from them." In 1727, an advocate named Michelarm was erased from the roll of the order for having lent his name to a *procureur*, contrary to the ordinance of 1693, which regulated the writings reserved to members of the Bar, and forbade advocates to sign papers which they had not drawn up. This erasure was confirmed by the Parliament.

The Bar took an active and prominent part in the discussions and troubles that arose from the famous bull *Unigenitus*, which attacked the liberties of the Gallican Church and condemned Jansenism, and which was a fertile source of strife and dissension in France, from the conclusion of the reign of Louis XIV. to the last years of that of Louis XV. Nevertheless it was accepted by an assembly of French prelates; royal letters-patent ordered its execution; it was registered in June 1714 by the Parliament; and very severe measures were had recourse to in order to compel dissidents to submit to it. During the early part of the Regency, the Regent showed himself unfavourable to the bull. But afterwards—either out of dislike to Jansenism, or urged on by his

minister, Dubois, who was ambitious of obtaining a cardinal's hat—he made overtures to Rome, and took the bull under his protection; and, in 1720, it was accepted anew and registered by the Parliament. But after the death of the profligate Regent and his infamous minister, a consultation took place, in which the *élite* of the Bar—such as Norman, Cochin, Aubray, and Julien de Prunay—gave a strong opinion against the bull, dated January 1728. This opinion, drawn up by Aubray and signed by fifty other advocates, condemned it as containing propositions contrary to the liberties of the Gallican Church. In this matter the members of the Bar seem, to some extent, to have departed from their ordinary functions, and to have assumed the right of protecting the interests of the State against the ultramontane doctrines. The result was that they were interdicted by the Royal Council, but the interdict was only maintained for a short period, and then revoked by a second decree of the Council, so that the Bar emerged triumphant from the struggle. In the following year, however, the Archbishop of Paris issued a charge condemning, in the strongest terms, the proceedings of the advocates with regard to the bull. They, on their part, appealed to the Parliament, which supported them, and forbade the publication of the Archbishop's charge; while the Archbishop appealed to the Royal Council, and the result was a decree of 10th March 1731, by which the King ordered silence on the question, and forbade all further meeting and deliberation. But the calm that followed was of short duration. The Archbishop would not submit to the decree, and, at his instance, the Council of State issued a new decree in July 1731, by which, among other things, the King permitted the Archbishop to publish and distribute the obnoxious charge, so that the advocates found themselves again placed under the archiepiscopal condemnation declaring their opinion with regard to the bull heretical. Under these circumstances they met together, and, after two days' deliberation, decided that the Bar should cease its functions. On the 30th August, ten of

the most active among them were exiled, and were followed in their banishment by the applause and good wishes of their brethren. The absence of these advocates from the courts was deeply felt, and the minister soon became anxious to terminate such an abnormal state of things. Overtures were were made to Normand, whose high position at the Bar placed him on a footing of equality with the most exalted personages. A decree of the Council pronounced the advocates "good and faithful subjects," the exiles were recalled, and business resumed its ordinary course. But, during the following year, fresh troubles arose out of a new encroachment by the Archbishop on the privileges of the Parliament and of the Bar. The King had again recourse to exile, and by a decree of 6th September 1732, banished the councillors of the Court of Petitions and Court of Inquest. But the advocates, by abstaining from the exercise of their functions, again compelled the Court to yield, and the triumph of the order was insured by the decree of 2d December 1732, revoking that of 6th September, and recalling the exiles. Twenty years afterwards a similar dispute, with similar results, took place between the Archbishop of Paris—backed by the royal authority—and the Court of Parliament and the Bar. It also arose out of the bull *Unigenitus*. The Archbishop—Christophe de Beaumont—ordered that the sacraments of the Church should be refused to those who would not accept the bull; whilst Parliament, on the other hand, forbade the refusal of the sacraments for such a cause, and even went the length of ordering the arrest of a curate who had refused them. The Parliament was transferred to Pontoise; but the advocates declined to plead, and there was a complete cessation of business. Again the King was compelled to cede to this passive but powerful resistance; and, on the 2d September 1754, recalled the Parliament to Paris, where business was resumed amidst general demonstrations of popular satisfaction.

We shall now shortly notice some of the more famous advocates and jurisconsults of the latter part of the eighteenth

century, beginning with Gerbier, whose eloquence and success equalled those of Normand and Cochin, the eminent pleaders whom we have already mentioned. He had great natural genius for oratory, which he had cultivated with the utmost assiduity, and the effect of his speaking was increased by his fine person, his noble gestures, and the touching quality of his voice. He was twenty-eight years of age before he began to plead, but his rare merit speedily placed him at the head of the Bar. Several specimens of his oratory, in some of the most important cases of the period, have been preserved, and are sufficient to give a high idea of his excellence as an advocate. The latter part of his career was clouded by many chagrins. He allowed himself to be persuaded to plead before the Parliament Maupeou, which was created after the suppression of the old Parliament, by royal authority in 1770; and when the ancient body was recalled in 1774, the majority of the advocates, who had remained faithful to it, and refused to plead before its substitute, were so indignant at Gerbier as even to talk of his erasure from the roll. Afterwards, he became involved in a bitter and prolonged quarrel with Linguet, an able but violent and unprincipled pleader, who was expelled from the Bar in 1775. He died *bâtonnier* of the order in 1781. Like Normand, he was sumptuous and extravagant in his personal habits; but he made immense sums by his profession. He is said to have received a fee of £4000 from the Company of the Indies, and £20,000 from a Sieur Cadet whose cause he had pleaded successfully.[1]

[1] These are certainly handsome fees, and indicate a lucrative practice. But the largest fortunes ever made, either at the French or the English Bar, are small when compared with the fortunes amassed by some of the advocates of ancient Rome under the empire. For example, Marcellus Eprius and Vibius Crispus, two advocates who flourished under Domitian, Nerva, and Trajan, are said to have each gained, by the exercise of his profession, no less than 300 millions of sesterces, or £2,400,000. How much of these vast sums was gained by fair and honourable practice, and how much by the exercise of the infamous *métier* of *delator* or accuser of wealthy citizens, whose spoils were coveted by the emperor or some of his favourites, we do not know. But we do know that many of the Roman advocates of that period disgraced their noble profession, and enriched themselves, by pandering to the greed of the

Among the advocates of this period we may also mention Elie de Beaumont, admitted to the Parisian Bar in 1752, whose memoir on behalf of the widow of that Jean Calas, who had been condemned and executed in conformity with the monstrous judgment of the Parliament of Toulouse, was read throughout Europe. He also distinguished himself by another memoir on behalf of Sirven, a Protestant of Saint-Alby, accused of having assassinated his daughter, who wished to become a Roman Catholic. Sirven and his family saved themselves from a fate similar to that of the innocent and unhappy Calas, by a timely flight into Switzerland; but both he and his wife were found guilty and condemned to death. The memoir of De Beaumont places their innocence in the clearest light, and was successful in procuring the reversal of the unjust sentence against them. Voltaire wrote him with reference to this memorial, "This is the second time, sir, that you have avenged nature and the law;" and afterwards he says, "What monsters you have had to combat! in two months two parricides inspired by fanaticism!"

By far the most distinguished French jurist of the eighteenth century was the famous Pothier, born at Orleans in 1699. He completed his legal studies in the university of that city, and was appointed councillor in the Presidial Court of Judicature at the age of twenty-one. In 1736, he commenced his great work on the Pandects, which occupied him during twelve laborious years. In this immense task he had the assistance of his intimate friends, Prevot de la Janés, his colleague in the Presidial Court at Orleans and Professor of French Law, and of De Guienne, an advocate in the Parliament of Paris. On the death of the former, in 1749, Pothier succeeded him in his professorship, and his able and enthusiastic teaching speedily gave a remarkable impulse and development to the school of law at Orleans, which, during the twenty-five years he presided over it,

emperors and sharing in the spoils of innocence. One of their number, named Regulus, has been branded by Tacitus, Pliny the younger, and Martial. As a reward for acting as an instrument of the vengeance and rapacity of Nero, he received about £60,000 and several lucrative appointments in the State.

educated many of the first magistrates and advocates in France. Pothier lived a retired, quiet, and studious life. Besides his great work on the Pandects, he produced a number of other works of kindred excellence in various departments of the civil law. The principles, and even the expressions contained in some of these, have been transferred into the Code Napoléon. Pothier died at Orleans at the age of seventy-three.

During the period that elapsed between the earlier part of the eighteenth century and the French Revolution, a variety of causes combined to increase the popular discontent with the existing order of things, and to prepare the way for a great and violent change. The barriers that protected the privileged, but generally corrupt, higher classes from the indignation that had gradually been growing in fierceness and intensity in the hearts of the oppressed lower orders, were ever becoming weaker and weaker. The people were at last conscious of their strength, and were beginning to question the doctrine of divine right and of passive obedience, and to doubt whether the unprivileged many were created for the sake of the privileged few. The writings of Montesquieu, Voltaire, Beccaria, and the Encyclopædists, were everywhere eagerly read and applauded, and forced onwards the approaching social change. In fact, the upper classes in France were slumbering in false security above an abyss which was ere long to open and engulf the Throne, the Church, the Nobility, the Parliament, and the Bar. The brief but scandalous orgies of the Regency; the profligacy and extravagance of the long reign of Louis XV. which succeeded it; the misery of the people from whose poverty was wrung out the means of supplying the luxury of the Court; the disorder of the finances; the atrocity of the criminal laws and their maladministration, as exhibited in the famous processes of Calas, Sirven, Lally-Tolendal, and others—these, and many other causes, contributed to the overthrow of the ancient *régime*. Reform was not granted in time; revolution came in its place. It is to the honour of the French Bar and the French magistracy, that they took a

prominent and leading part in attempting to bring about those moderate and seasonable changes which might have averted the Revolution. The most telling and brilliant attacks upon the existing system of criminal jurisprudence—which was secret in its procedure and cruel in its punishments, and under which the accused was denied legal assistance, and might be kept for years languishing in a loathsome dungeon before being brought to trial—were made by Dupaty, Advocate-General to the Parliament of Bordeaux, and by Servan, Advocate-General to the Parliament of Grenoble. The following passage occurs in a discourse delivered by the latter in 1766 on the administration of justice:—"Our laws everywhere and indiscriminately are prodigal of the penalty of death; crimes the most different, the most atrocious, and sometimes the slightest, are confounded in the same punishment. I proclaim it to timid men, superstitious adorers of every ancient usage; I proclaim it to violent men, who shroud the head of justice in a cloud, and only suffer her arms to be seen; I proclaim it to all; whilst our criminal laws shall subsist, as a citizen I shall never fail to obey them, as a magistrate I shall never fail to make them obeyed by others; but as a friend of humanity I shall ever desire their reformation."[1]

[1] It is impossible to read any collection of *causes célèbres* which occurred at the time when France was ruled by these atrocious criminal laws, without being struck not only by the terrible severity of the punishments inflicted even for comparatively venial crimes, but also by the great number of cases where men and women—whose innocence was afterwards incontestably proved by the confession of the real criminals—were subjected to the torture, ordinary and extraordinary; were branded and condemned to the galleys for life; were hanged; were broken on the wheel. The cases of Calas, of Sirven, of Lebrun, of the Fourés, of the Ferrières, of Cayron, of Maillart and the sisters Lescop, of Claude Gentil and Guillaume Vauriot, afford melancholy examples of this. Nor are these cases greatly to be wondered at when we reflect upon the secret and one-sided nature of the criminal procedure. The French prosecutors and judges of that period entirely ignored that admirable maxim of the Roman law, founded on the principles of eternal justice, *Nullus idoneus testis in re sua intelligitur*; admitted the accuser to be both plaintiff and witness; and, not unfrequently, on no other testimony, and even in the absence of proof of the *corpus delicti*, condemned the accused to death, especially when they happened to be poor and powerless. The *juge-rapporteur*, who reported on the case, was too often prejudiced against the prisoner, and anxious to gain credit by proving his guilt; and the fate of the accused was

Some of the most illustrious lawyers in France seem to have clearly foreseen the great revolution long before it took place; and one of the most remarkable foreshadowings of it is to be found in a discourse pronounced by the Advocate-General Séguier, nearly twenty years before the event:—"An impious and audacious sect," he says, "has risen up in the midst of us; it has adorned its false wisdom with the name of philosophy, and under that imposing title it has laid claim to the possession of all knowledge. Its partisans have set themselves up as teachers of the human race. Liberty of thought is their watchword, and that watchword they have made to resound from one extremity of Europe to the other. With one hand they have striven to shake the throne; and with the other to overthrow the altar. Their object is to extinguish faith, and to turn the thoughts of the people into another channel with respect to religious and civil institutions; and the revolution has, so to speak, been effected; its proselytes have increased in number; their maxims are everywhere spread abroad; kingdoms have found their ancient foundations shaken; and nations, thunderstruck to find their principles annihilated, have demanded by what fatality they were become so different from their former selves. Those who were naturally the best fitted to enlighten their contemporaries have placed themselves at the head of the unbelievers; they have displayed the standard of revolt; and, by that spirit of independence, they have striven to add to their fame. A cloud of obscure writers, unable to distinguish themselves by the lustre of their talents, have shown the same audacity. . . . Finally, religion counts to-day almost as many declared enemies, as literature boasts pretended philosophers. And Government ought to tremble to tolerate in its bosom a sect burning with zeal, which seeks only to raise the people to re-

almost entirely in his hands, as he could give to the evidence of the witnesses and the statements of the accused whatever turn he pleased without fear of contradiction. He was also entitled, on reporting the case to his brother judges, to deliver his opinion in the first place; and, in the great majority of instances, they agreed with his report and opinion, and very seldom took the trouble of examining the documents in the case for themselves.

bellion under pretext of enlightening them." The discourse then proceeds to criticise a number of works whose taste and morality have long since been generally condemned; and the eloquent orator thus sums up,—"By combining all these productions we might form a body of false doctrine, the whole of which incontestably proves that the object proposed is not merely to destroy the Christian religion. Impiety does not limit its projects of innovation to a rule over people's minds. Its restless enterprising genius, the enemy of all subordination, aspires to overthrow every political constitution; and its aspirations will be fulfilled only when it shall have placed the legislative and executive power in the hands of the multitude; when it shall have destroyed the necessary inequality of ranks and conditions; when it shall have vilified the majesty of kings and rendered their authority precarious and subordinate to the caprices of a blind multitude; and when at last, by means of these strange revolutions, it shall have precipitated the whole world into anarchy and into all the evils which are inseparable from it."

Several members of the French Bar took a leading part in the famous process against the Jesuits which was brought before the Parliament of Paris in 1761, and which resulted in the suppression of the order in France in 1764. Gerbier, Target, and Legouvé wrote or pleaded against the Jesuits, but Target gave them their death-blow by procuring a copy of their constitutions, printed at Prague in 1757, which, among other things, showed the supreme authority of the General, and the obligation of all the members to obey him *perinde ac cadaver*. A summary of the constitutions and of everything that related to the history of the order was likewise laid before the Parliament by M. Joly de Fleury—a work of immense labour and erudition, an inexhaustible armoury from which the adversaries of the Jesuits may always furnish themselves with the keenest weapons. There was much that was objectionable and immoral in the history and constitutions of the order; but it was the omnipotence of the General that chiefly weighed with the Parliament, as that

was clearly dangerous to the liberties of the Gallican Church, which it had always strenuously maintained.

Scarcely had the protracted conflict arising from the bull *Unigenitus* been terminated, when Parliament and the Bar found themselves involved in a fresh struggle with the royal authority, arising out of questions connected with the conduct of the Duke d'Aiguillon, who was accused of numerous acts of maladministration while Governor of Brittany. The Parliament instituted a process against him, but the King interfered and forbade the Parliament to meddle with the matter. Thereupon that Court registered the royal edict, but immediately afterwards drew up an energetic remonstrance, which they attempted to strengthen by suspending the exercise of their functions. This was met by a violent measure on the part of the King and his Chancellor, Maupeou, who were bent upon breaking the resistance of Parliament at all hazards. On the night of the 19th January 1771, all the members of that body were awakened at the same hour in the King's name. Two musqueteers entered their chambers and presented to each of them a paper bearing an order to resume their functions, and to answer immediately in writing "Yes" or "No." Astonished at the suddenness and violence of the measure, forty members signed "Yes;" the majority, more firm, signed "No." But next morning, when they had all met together, those who had complied with the royal command were ashamed of their weakness, and hastened to retract it and join their colleagues in their resistance. The following night a similar scene took place. Each member was awakened by an usher, who notified to him a decree of Council confiscating his office, and forbidding him to resume his functions, or even to take the title of Member of Parliament; and scarcely had the usher gone out when musqueteers entered bearing letters of exile banishing the members to different parts of the kingdom. The Chancellor Maupeou hoped by this vigorous measure to strike terror into the Parliament, and at least compel a fraction of its members to become the submissive instruments of the royal

will. But he was mistaken in his calculations. Not a single member showed either hesitation or weakness. All nobly adhered to what they believed to be their duty. It was an act of civil courage of which history has hitherto taken too little note. The ancient Parliament was thus suppressed, and was speedily replaced by a miserable substitute which became a public jest, and was christened the Parliament Maupeou, after the unpopular Chancellor who had called it into being. At the time of its suppression, the Parliament had against it the King, the Court, the freethinkers, and the Jesuits—redoubtable adversaries. In its favour it had a long list of services rendered, and the honourable character of its members, many of whom were distinguished by probity, learning, and disinterestedness. But it had also great faults. It had especially deterioriated since the legalizing the sale of offices had put an end to the principle of election. It wanted the initiative to enable it to revise the ancient laws; and royalty would have stopped it on that path of improvement, even if it had ventured to enter upon it. On many occasions it felt thoroughly that it had need of support, and it had several times recommended the assembling of the States-General; but the monarchy, which feared them, was united on this point with the clergy and the nobility, and rejected the proposal. Thus abuses were perpetuated, financial difficulties increased, and things had come to such a point that a revolution was almost inevitable.

The Bar remained faithful to the old Parliament, and 544 advocates on the list at the time of its suppression, voluntarily gave up the exercise of their functions. A new order of pleaders was established, consisting of 100 lawyers, termed *avocats-procureurs* to manage causes before the Maupeou Parliament, their fees being paid by a tariff—a degradation to which the former Bar had always refused to submit. These substitutes, however, were never regarded by the judges or the public as true advocates; and the Chancellor made pressing overtures to Gerbier, the head of the old Bar, to resume his functions, which he did, and induced 262 advo-

cates to resume theirs at the same time. We have already mentioned how strongly this conduct of Gerbier's was resented by the majority of the order, who still refused to acknowledge the Maupeou Parliament. But the organization of the Bar was, for the time, entirely broken, and no list of advocates was made up from 1770 to 1774, nor was any *bâtonnier* appointed. The triumph of Maupeou seemed complete. His new Parliament was comparatively ductile and submissive, and the return of Gerbier and a large section of the Bar allowed the course of practice to proceed smoothly and respectably. But that triumph was short-lived. Louis XV. terminated his scandalous, selfish, and vicious career in May 1774, and the young prince, Louis XVI., succeeded him. On ascending the throne, he made laudable efforts to put an end to the most crying abuses, abolished the torture and compulsory labour, called the sage Turgot to his counsels, and restored the ancient Parliament. But Maupeou had dealt it a death-blow, and it was only a shadow of the former body that assembled. It had lost its influence and its moral life. The Bar, as it had shared in the disgrace, shared in the triumph of the ancient Parliament, was restored to all its former privileges and functions, and was addressed in the most flattering terms by the chief officers of the Crown. The restored Parliament showed but little inclination to submit to the royal authority of Louis XVI. Again and again it set itself against his measures of reform; and from November 1774 to May 1776 the King found himself constantly opposed and thwarted by his Parliament. Among the last great causes tried before the ancient Parliament, was that of Solar, in which Elie de Beaumont and Tronson-Ducoudray, particularly distinguished themselves by their eloquent and successful advocacy of the innocent and ill-used Cazeaux; that of the necklace which has acquired a European fame from the great names of those implicated in it; and that of Kornemann, the banker of Strasbourg, which was signalized by the *début* of a young advocate named Bonnet, who was destined to become one of the chief glories of the Bar.

The restored Parliament refused to register the financial edicts of the sovereign; and at the meeting of 30th July 1787, we find it laid down in an address to the King that "The nation, represented by the States-General, has alone the right to grant to the King the necessary supplies," and the King is further requested to summon the States-General. On 6th August 1787, a *lit de justice* was held at Versailles, in which Louis vainly sought to vanquish the resistance of the Parliament, and afterwards ordered the registration of his edicts. Next day the Parliament answered by declaring "null and illegal the transcription of the edicts ordered in the *lit de justice.*" It was the first act of the revolution. M. Gaudry, in his history of the Bar, thinks that the real motive that influenced the members of Parliament, in their opposition to the financial edicts of the King, was not patriotism, but a selfish fear of being subjected to the burden of the land-tax. That, and their wish to keep the King in tutelage, were, according to him, the real motives of their obstinate hostility. "As to the advocates," he says, "their position was entirely different; the projects of reform were welcomed by them with a real enthusiasm; far from threatening their influence, they seemed likely to augment it by freeing justice from her fetters, and giving up to them the discussion of public affairs." Agitations and troubles continued, and the language of the Parliament became more menacing and unmeasured. On the 12th April 1788, on the subject of *lettres de cachet*, we find observations addressed to the King commencing in the following terms:—"Public liberty attacked at its foundation, despotism substituted for the law of the State, the magistracy at length reduced to be only the instrument of arbitrary power, such are the great and lamentable causes which bring the Parliament to the foot of the throne."

On the 24th January 1789, the States-General were summoned to meet at Versailles, and were actually opened on the 5th of May following. On the 17th June they assumed the title of Constituent National Assembly, and speedily arrogated to themselves all the powers of the State. They lost no time

in suppressing the ancient Parliament, whose last sitting was held on the 14th October 1790, and which fell after an existence of 472 years, reckoning from 1318, when it was made stationary by Philip the Long. As a judicial tribunal, it had fulfilled its duties for the most part well and nobly; as a political body, it had proved a failure; strong with the feeble, and feeble with the strong, mistaking its constitution and striving to make itself as far as possible a guide and tutor of kings. From the earliest years of Louis XV., it unceasingly strove to substitute its aristocratic power for that of the monarchy. It ruined the hold of the throne upon the affections of the people by its constant attacks, and it weakened the aristocracy by conniving at excesses which shocked all impartial men; it paralysed the measures initiated by Louis XVI. which might have saved the State, and ended by falling a victim to its own insensate pride, and involving in its downfall the monarchy itself.

Originally, the ancient Parliament was composed of lawyers selected by the King from the most eminent members of the legal profession; merit opened the way to the highest offices in the State to men born in the humblest ranks; and thus the Parliament, like the Church, became a powerful democratic institution, taking root and flourishing in the aristocratic soil of the middle ages. At a later period, the Kings of France, in order to raise money, made the judicial offices in Parliament saleable, and it thus gradually came to be composed of a number of wealthy families of the robe, who considered the administration of justice as their peculiar property, which they guarded with the most jealous and watchful care; so that the original democratic constitution of the Parliament became transformed into a narrow and prejudiced aristocracy —a judicial caste who had bought and retained the right of dispensing justice to their fellow-citizens. These magistrates, however, though the system of the venality of offices under which they had attained power was a radically vicious one, were generally fair and independent in their rendering of

justice, which they administered in the name, but not in accordance with the dictates of the King.

When the power of the nobility was at length broken down by the skilful and unscrupulous policy of several able Kings and ministers; when the Crown had become absolute and all powerful; the Parliament was the only remaining institution which could restrain or temper the unbounded sway of the sovereign. It could speak when all besides were compelled to be silent; it could oppose resistance when all others bowed in submission. It thus became popular at the expense of royalty; and when the ideas of equality and of hatred to privileges and despotism were developed and spread abroad throughout France, the Parliament was viewed with favour as the bulwark of the nation, as the chief barrier to the encroachments of the royal power. Its faults and defects were forgotten, its prejudices overlooked, its services exaggerated. But when, by its assistance, the absolute power of the throne had been utterly and definitively prostrated, and the nation felt itself able to maintain and defend its own rights, the Parliament was speedily seen to be an antiquated and decrepid institution; a legacy from the middle ages unfit for modern use; and its downfall soon followed that of the throne it had helped to overthrow. Its triumph was the commencement and the cause of its destruction.

The Bar, for centuries the firm ally and the chief ornament of the Parliament, did not long survive it. The Constituent Assembly, indeed, numbered among its members several advocates belonging to the Parisian Bar, and it was presided over by Thouret, an advocate of Rouen; but the advocates of the ancient Parliament felt it impossible to form the Bar of the new judicial organization. The dominant passion for equality was also strongly against the privileges of the Bar; and the Assembly, after having abolished several privileged corporations, proceeded also to abolish the Bar. The resolution putting an end to it was passed upon the report of an advocate of Lyon named Bergasse, who had previously

acquired considerable reputation at the Bar. His report of 17th August 1789 concludes in the following terms :—"Every one shall have the right of pleading his own cause himself, if he thinks proper; and in order that the office of advocate may be as free as it ought to be, advocates shall cease to form a corporation or an order, and every citizen having made the necessary studies and submitted to the necessary examinations, shall have the right to exercise that profession: he shall be bound to answer for his conduct only to the law." Strange to say, none of the advocates in the Constituent Assembly stood up in defence of the Bar, and the laws of 16th August and 2d September 1790 abolished the order of advocates. One orator only defended them in the Assembly, and that orator was Robespierre, with whose true and prophetic, as well as eloquent words, we close the present chapter. "The Bar," he said, "seems still to display liberty exiled from the rest of the world; it is there that we still find the courage of truth, which dares to proclaim the rights of the weak and oppressed against the powerful oppressor. The exclusive power of defending citizens shall be conferred by three judges and by three lawyers! In that case you will no longer behold in the sanctuary of justice those men of deep feeling capable of rising to enthusiasm in behalf of the cause of the unfortunate, those independent and eloquent men, the support of innocence and the scourge of crime. They will be repelled, but you will have welcomed lawyers without delicacy, without enthusiasm for their duties, and only urged on in a noble career by sordid considerations of interest. You mistake, you degrade functions precious to humanity, essential to the progress of public order; you close that school of civic virtues where talent and merit learned, while pleading the cause of citizens before the judge, to defend thereafter that of the people in the legislative assemblies."

CHAPTER V.

Advocates in the Constituent Assembly at the time of the suppression of the Bar—Celebrated Lawyers at the Parisian Bar at the time of its suppression—The Girondists, Barnave, Vergniaud, etc.—Boissy d'Anglas—Courts established and Laws passed by the revolutionary Assemblies.

We have now traced the history of the French Bar down to its suppression by the Constituent Assembly in 1790; and it is worthy of notice that, in that Assembly, where the law for its suppression encountered scarcely any opposition, there were seven members belonging to the Bar of Paris, and the office of President was held by Thouret, an advocate belonging to the Parliament of Rouen. Some authors have endeavoured to explain the silence of these advocates during the discussions preceding the passing of the law which abolished their order, by supposing that they abstained from offering any opposition through an enthusiastic devotion to the glorious traditions and ancient renown of the Bar. Seeing that the suppression of the courts of supreme jurisdiction would place the administration of justice in the hands of a multitude of petty tribunals, and consequently distribute the members of the Bar among a number of inferior courts, they feared that the grandeur and dignity of the order would be impaired, and therefore preferred to submit to its extinction rather than to imperil its honour. It has also been said that the advocates belonging to the Constituent Assembly, having stated to several members of the Parisian Bar the perplexity they felt as to the line of conduct which they should pursue, the following written opinion—drawn up by MM. Bonnaire and Delacroix-Frainville—was communicated to

them :—"We must be viewed under two aspects : under that of *Advocates*, and under that of *Advocates to the Parliament*. The dissolution of the Parliament deprives us of the latter. With regard to the former, it can only continue to be of any value while there shall yet remain supreme courts to which we can transfer our name, our attributes, and our prerogatives; but the new judicial organization leaves no place for such courts. It recognises nothing but paltry tribunals of first instance which take the place of each other in appeal cases. It will be these courts that will give investiture as advocate. Their Bars will be furnished with a prodigious number of men, who, without any idea of our principles and discipline, will lower and degrade the nobility of our functions. These very men, however, will obstinately arrogate to themselves the name, and will usurp the insignia, of advocates, will even wish to form an order, and the public, misled by the similarity of name, will confound these mushroom-advocates with those belonging to the old *régime*. The only means to escape from that dangerous *posterity*, is forthwith to suppress the name and order of advocate, and the attributes which belong to it; so that there may be no other advocates from the time that we shall have ceased to exist. Sole depositaries of that noble rank, let us not permit its glory to be tarnished by passing into the hands of those who would sully it; let us not give ourselves unworthy successors. Let us with our own hands terminate the existence of the object of our affections, rather than deliver it up to outrages and affronts." In fact, though on better grounds and from nobler motives, the order of advocates spoke and acted much as Ricci the General of the Jesuits had done some twenty-six years previously, when he preferred the abolition of his order to any alteration of its essential principles in his famous "*Sint ut sunt, aut non sint.*"

Many celebrated lawyers adorned the Parisian Bar at the period of its suppression. Among these we may mention François-Denis Tronchet, the last *bâtonnier* elected by the ancient council of the order. He was subsequently one of the defenders of Louis XVI., and narrowly escaped the vengeance

of the regicides. He was more distinguished as a consulting than as a pleading advocate. His practice was immense, and nearly 3000 of his opinions still exist, remarkable for brevity, clearness, and profound legal knowledge. Paul-Nicolas Henrion de Pansey was another distinguished advocate of this stormy period. He wrote a treatise on fiefs, dissertations on feudal law, and many other able works. He died in 1829, at the advanced age of eighty-seven, occupying the high office of first President of the Court of Cassation. A reply of his to the Emperor Napoleon deserves to be recorded. The Emperor asked him why he had never been married. Upon which Henrion promptly responded, "Upon my word, sire, I have never had time." Ferey was also an eminent jurist of the revolutionary era, distinguished by his untiring industry. He drew up for his own instruction no fewer than seventeen folio volumes of notes extracted from different works on law. At a later period, he took a leading part in the preparation of the civil code. He died in Paris in 1807. Joseph Delacroix-Frainville was another famous barrister, whose life was prolonged far beyond the revolutionary period. He exercised his profession during forty years, and was for four years president of his order. Shortly before his death, which happened in December 1831, he ordered himself to be carried into his library, declaring that he wished "to die on the field of honour, in the midst of his friends." Pierre-Nicolas Berryer—himself an eminent pleader, especially in commercial cases, and more famous as the father of the most brilliant orator of the modern French Bar—also belongs to this epoch, as does Louis-Ferdinand Bonnet, one of the most amiable and able members of the order. Raymond-Romain de Sèze, born at Bordeaux in 1748, played a prominent part as advocate both during and after the revolutionary period. In 1789, he undertook the cause of the Baron de Bezenval, impeached for having given orders to defend the Bastille, and procured his acquittal; and he still more highly distinguished himself by his defence of the unfortunate Louis XVI. He afterwards attained to high honours and preferments, being made first

President of the Court of Cassation, Peer of France, and member of the French Academy. He was remarkable for the length of his opinions, one of which extends to 107 quarto pages. But perhaps the greatest advocate of this period was Nicolas-François Bellart, born in 1761, and admitted to the Bar in 1785. He was an intimate friend of Turlin, who was a young man of good fortune, and a cousin of the celebrated actor Talma. Turlin was fond of assembling around him Bellart and some of his other intimates, who were, like himself, studying for the Bar; and on these occasions they used to practise declamation, selecting for their subjects the noble tragedies in which Talma was so great. Bellart thus improved his eminent natural gifts; and his graceful gestures, sonorous voice, and animated manner, combined with his fine face and person, made the eloquence of his pleadings almost irresistible. He defended many of those proscribed by the revolutionary tribunals; and such was the effect of his eloquence in the case of Mme. de Rohan-Rochefort, that the infamous Fouquier-Tinville who heard him, on the judges retiring to deliberate, threw himself into his arms, bathed in tears, and exclaimed, "My friend, they are monsters if they condemn her!" She, and those accused along with her, were acquitted. He was obliged to give up the Bar at the age of forty, owing to a spitting of blood. His principal pleadings, which are among the most remarkable that the French Bar has produced, have been collected in six volumes. After he left the Bar he filled various high offices in the magistracy; and, as *Procureur-Général*, pronounced several orations worthy of D'Aguesseau, especially one upon sincerity in the advocate. He often wished to retire from his arduous and responsible position; and, on one occasion, Louis XVIII. said to him,—"You have the misfortune to be *Procureur-Général*, as I have the misfortune to be King. We must remain at our posts." Bellart died in July 1825. The city of Paris erected a monument to him in the cemetery of Père-la-Chaise. The last famous advocate belonging to this epoch whom we shall mention was Jean-André Gairal, admitted to the Bar in 1787. During forty years he was

engaged in a variety of important causes. One of the most remarkable of these was that of the heirs of De Rusé, which commenced in 1788, was continued down to the suppression of the Bar in 1790, was resumed in 1818, and in which, in 1827, Gairal was successful in procuring a decree of the Court of Paris, condemning their debtor to pay them about £60,000.

The advocates belonging to this period, of whom we have hitherto spoken, were distinguished more by their professional excellence than by their political ability and influence. But the case was exactly opposite with Barnave and Vergniaud, on whose bright and brief careers we propose to dwell for a little. Barnave was the child of Protestant parents, and was born at Grenoble, in the province of Dauphiné, in 1761. His father was a lawyer in good practice, belonging to the citizen class, and his mother was handsome and of noble birth. An affront offered to her by the Duc de Tonerre, Governor of the province, first inspired the young Barnave with the determination "to raise the caste to which he belonged from the state of humiliation to which it seemed condemned." He early displayed the impatience of injustice and oppression, the clear insight, the fondness for reading and reflection, and the firmness of character, for which he was afterwards conspicuous. But he also showed great tenderness of heart and attachment to his family; and at sixteen fought a duel in defence of a younger brother, in which he was severely wounded. In person and countenance he was graceful and handsome, with fair hair and blue eyes. He had a strong predilection for literature, but applied himself vigorously to the study of law, in deference to the wishes of his father, at the same time uniting with it an attentive examination of all the works he could find on the subject of government and institutions; thus preparing himself for the political life on which he was so soon to enter. His remarkable talents were early appreciated; and in 1783, when only twenty-two, he was chosen by his brethren of the Bar of Grenoble to pronounce the discourse at the closing of the Parliament. He selected for

his subject the Necessity of the Division of Powers in the Body Politic, and acquitted himself so well that he was universally applauded, and at once placed in the highest position among the youth of his native province. At twenty-seven, he was chosen, along with the veteran Mounier, to represent Dauphiné in the States-General. There, he soon made himself remarked by the clearness, facility, and vigorous reasoning of his oratory. In spite of his youth, he speedily acquired weight and authority, took a leading part in all the most important discussions, and, in the Constituent Assembly, several times ventured, not unsuccessfully, to measure himself with Mirabeau. He was ardently attached to liberty, but was, at the same time, a friend to the monarchical form of government, which he believed to be the best suited to France. With his usual penetration, he soon perceived the real state of parties, the true nature of the great movement that was agitating the country in 1789, and the utter impossibility of arresting it by the half measures which his colleague Mounier and his followers wished to employ. "Mounier and his partisans," he said, "seemed not to have perceived that there was a revolution; they wished to construct the edifice with the materials which had just been broken down." He found three parties contending for the mastery. The first wished to regenerate the monarchical power by changing the sovereign; this was the secret wish of the Orleans party. The second aimed at substituting a republican government for monarchy. While the third had for its object to preserve both the throne and the sovereign, and, at the same time, to recast and renew all the other parts of the Government. To this last party Barnave at once attached himself, and remained throughout his short political career its consistent and unflinching supporter. During the stormy debates that often took place in the Assembly, and gave rise to a number of personal quarrels, he got involved in a duel, which, however, terminated without bloodshed. A deputy named Cazalés had exclaimed, looking pointedly at Barnave, that all the members of the left were brigands; and, on Barnave inquir-

ing his meaning, he added that the insult was specially levelled at him. Next day a meeting took place in the Bois de Boulogne, Barnave being seconded by Lameth, and Cazalés by Saint-Simon. Barnave fired first and missed, and Cazalés' pistol twice hung fire. "I beg you will excuse me," politely exclaimed Cazalés. "I am here to wait your pleasure," returned Barnave. During the time the seconds were recharging the pistols, the two antagonists conversed with the utmost coolness. "I should be heart-broken to kill you," said Cazalés, "but you give us a great deal of annoyance. I should only like to keep you out of the tribune for some time." "I am more generous," retorted Barnave; "I desire scarcely to touch you, for you are the only orator on your side of the house, whilst on mine they would barely notice my absence." At the second fire, the bullet of Barnave struck Cazalés on the forehead, but merely inflicted a severe contusion, the rim of his hat having deadened the blow.

In the autumn of 1790, Barnave was appointed President of the Assembly, and was subsequently sent, along with La Tour-Maubourg and Pétion, to bring back the King and Queen from Varennes, where their flight from France had been arrested. Throughout the journey, he conducted himself like a man of honour and feeling towards the unfortunate Queen; and by so doing, prepared the way for his own arrest and condemnation at no distant date. He clearly perceived the fatal error committed by the Constituent Assembly in resolving that none of its members should form part of the approaching Legislature—an error which in reality re-opened and perpetuated the revolution while declaring it an end; and how truly he estimated the character of the moderate party to which he belonged, may be seen from the following remarkable passage in his memoirs. "The moderate party," he says, "which, both in numbers and composition, should be regarded as the nation itself, has hardly any influence; it throws itself, indeed, as a make-weight on the side which seeks to moderate the revolution, but it scarcely dares to give public utterance to its wishes. When events which it has

the most dreaded are consummated, it endorses them, it abandons its former chiefs and its former principles, and seeks only, in its new career, still to form the rear-guard and to retard the march of the revolutionary column, in whose train it is dragged along in spite of itself. This party has always, coward-like, abandoned its leaders, whilst the aristocratic and popular parties have always supported theirs. Secret good wishes and some applause when we have conquered for it, a feeble support in success, no resources in defeat, no hope of vengeance, are all that we can, in general, expect from it. In this revolution it has never possessed any energy, unity, or talent for attack." On the dissolution of the Constituent Assembly, Barnave returned to his home at Grenoble, where we find him, in spite of his sense of the errors and crimes of the Revolution, giving the following eloquent testimony to the good it had wrought:—"What a vast space traversed in these three years, and without our being able to flatter ourselves that we have arrived at the end of our journey! We have dug very deep, we have found a new and fertile soil; but what an amount of corrupt exhalations has it sent forth! How much public spirit in individuals, how much courage in the mass, but how very little of real character, of calm force, and especially of true virtue! Arrived at my home, I ask myself if it would not have been as well never to have left it; and I have need of a little reflection to answer, so much does the position in which this new Assembly has placed us abate one's courage and energy. However, when I consider a little, I am convinced that whatever happens we cannot cease to be free, and that the principal abuses which we have destroyed will never reappear. How many misfortunes should we undergo, to make us forget such great advantages!" Soon after his return home, Barnave was arrested on a charge of corresponding with the royal family, detained for a year in captivity in Dauphiné, brought to Paris on 3d November 1793, and beheaded on the 30th of the same month. He was only thirty-two when he died, and his political career had lasted little more than four years. Barnave's greatest

oratorical success in the Constituent Assembly was his speech on the question of the inviolability of the royal person, in which he displayed admirable eloquence and just and exalted political views. He uncompromisingly maintained the doctrine of the inviolability and irresponsibility of a constitutional king, and endeavoured to throw around the unfortunate monarch the protection of the mantle of the law; and in spite of the distastefulness of his theory to many of his hearers, he maintained it with a largeness of view, a dignity, and a fervour that drew down almost universal applause. Mme. de Staël said of him that his eloquence resembled that of the best English models, from its close and vigorous reasoning, and its appeal to the judgment rather than the passions; and an eminent French critic of a more recent date affirms,—"If we would name at a distance, among the men of that great Assembly, the orator who would represent it most faithfully, from its first to its last day, in its continuity and consistency of character, in its capacity, in its splendour, in its faults, in its integrity also, and in the work of its healthful majority, it would be neither Mirabeau, too great, too corrupt, too soon elevated to power, that we would choose, nor Maury, the Mirabeau of the minority, nor La Fayette, not sufficiently eloquent, nor others; it would be, for the combination of qualities which best express the character of the Constituent Assembly, that young deputy of Dauphiné, Barnave."

Vergniaud, like Barnave, belonged to a provincial Bar—that of Bordeaux,—and his brilliant public career was even shorter than that of the great statesman and orator of Grenoble, scarcely extending over four years; for the Revolution, like Saturn, was fond of devouring its own children. His fame as an advocate stood high before he entered upon the dangerous arena of the public life of the Revolution; but the splendour of his eloquence and the ascendency of his position in the National and Legislative Assemblies has entirely eclipsed his professional reputation, and procured for him the fame of being, with the exceptions of Mirabeau and Barnave, the greatest orator of the Revolution. Unfortunately, how-

ever, in spite of his eloquence, patriotism, and disinterestedness, Vergniaud was wanting in political foresight and in decision of purpose, and no man did more than he to widen the breach between the throne and the people, to place the supreme power in the hands of the lowest and most brutal of the populace, and thus to prepare the way for the Reign of Terror. He permitted the Jacobins to gain power when he might have crushed or disarmed them. He advocated extreme counsels, until it was too late to fall back upon moderate measures; and, like the magician's servant in the story, called forth a spirit which he could not control, and which finally tore him to pieces. The reign of terror claimed him as one of its earliest and most illustrious victims; and his premature death on the scaffold, in the flower of his days and the height of his faculties, was a bitter expiation of his errors of judgment and vacillation of purpose. Yet it cannot be forgotten that one of the most eloquent voices in France was raised to insure and precipitate the fall of the monarchy; to enforce the utmost severities against the *émigrés;* to bring Lessart, the Minister of Louis XVI., to the scaffold; to justify the cowardly assassins of Avignon; to prosecute the priesthood; to vote for the death of the King. But while admitting Vergniaud's want of political prudence and foresight, the purity of his motives and the sincerity of his convictions must, at the same time, be fully acknowledged. The following brief extracts from some of his speeches on memorable occasions may give a slight idea of the brilliant character of his eloquence. The first is from the speech against Lessart on 10th March 1792. Stretching out his hand and pointing towards the Tuileries the orator exclaimed, "From this tribune from which I address you, I behold the palace where perverse counsellors mislead and deceive the King whom the Constitution has given us, forge the fetters with which they wish to enchain us, and prepare the schemes which would deliver us up to the house of Austria! I behold the windows of the palace where they concert the counter-revolution, where they contrive the means of replunging us in the

horrors of slavery, after having made us pass through all the disorders of anarchy and all the furies of civil war! The day has come when you can put a stop to such audacity! Consternation and terror have often gone forth in ancient times from that famous palace, let them return to it to-day in the name of the law!" The second extract is from a speech in which Vergniaud boldly and nobly, at the risk of his life, denounced the terrible massacres of September, in which the Parisian mob had murdered by hundreds the prisoners in the different prisons of the city. His eyes had at last been opened by these hideous butcheries. But his illusions were dispelled too late. The power of the Jacobins was confirmed. Yet on the day that followed the night of these massacres he thus boldly denounced them in the Assembly :—"The blinded Parisians dare to say that they are free! Ah! they are no longer the slaves, it is true, of crowned tyrants, but they are the slaves of the vilest of men, the most detestable of scoundrels. It is time to break these shameful chains, to crush this new tyranny! It is time that those who have made good men tremble, should be made to tremble in their turn. I am not ignorant that they have daggers at their bidding; but I take you to witness, that my voice shall thunder with all the force it possesses against such crimes and such tyrants! What care I for daggers and assassins! What matters life to the representatives of the nation, when the question regards the safety of the people!"

Two other deputies from the Gironde, Guadet and Gensonné, were distinguished members of the French Bar, and about the same age as Vergniaud—thirty-six—when they were called, like him, to take an active part in political life. The various qualities of their eloquence have been happily characterized by an eminent member of the present French Bar: "Guadet, an impassioned orator, supported with impetuous vehemence extreme opinions; he spoke extempore with remarkable facility, and excelled in dealing the most terrible blows to his antagonists. Always ready, he threw himself boldly into the tribune, and there displayed the inexhaustible

resources of his fertile intellect. As calm as Guadet was impetuous, Gensonné, austere and grave, possessed no seductive qualities; but, endowed with an accurate judgment, he understood how to state the subject under discussion in the most powerful manner and in the fewest words, and if he was unable to captivate his hearers by the charms of his eloquence, he at least understood how to convince them by the force of his reasoning. Vergniaud united the impetuous eloquence of the first to the inflexible logic of the second, and excelled both by the elevation of his thoughts and the sustained dignity of his language. The most accomplished orator of the Gironde, he belonged to that rare class of men who have no need gradually to grow to greatness in an Assembly, but who, by a single bound, spring into the first rank, and there maintain themselves without an effort."

Another great man belonging the Bar of the ancient Parliament, and a prominent figure in the Revolution, was Boissy d'Anglas, who was born at St. Jean Chantre in 1756, and died at Paris in 1826. He is indeed more generally known as a writer, a magistrate, and a statesman, than as a lawyer; but, as he was admitted, when a young man, advocate to the Parliament of Paris, we are entitled to rank him among the celebrities of the Bar, which we are the better pleased to do, as his was not only a useful, consistent, and successful life, but was also illustrated by one of the most splendid examples of civil courage recorded in the annals of history. In the revolutionary Assemblies, Boissy d'Anglas was distinguished for moderation, firmness, and application to business. In his speech on the punishment of Louis XVI., he said, "I reject the opinion of those who would put Louis to death; I vote that Louis be detained in a secure place until peace, and the recognition of the Republic by all the powers, allow of his banishment from France." He had no part in the reign of terror; but yielded to the solicitations of Tallien and Barrère, and joined them in order to procure the overthrow of Robespierre. His adhesion had a powerful effect in deciding the result of the struggle. But the most glorious

day in the life of Boissy d'Anglas was the 25th of May 1795, when the mob of Paris, recruited by the thieves, murderers, and evil-disposed persons of the capital, burst into the hall where the National Convention was sitting. The rabble were armed and furious, and many women were to be found in their ranks. They uttered the most savage threats, and soon compelled Vernier, who was sitting as President when they entered, to leave the chair. He was succeeded by André Dumont, who was also speedily forced to retreat, terrified by the fury of the mob, who seemed bent on bloodshed. Boissy d'Anglas—whose firmness of character was well known, and who had previously given many proofs of courage and devotion—was then appealed to by his panic-stricken colleagues. He responded to the call, seated himself in the President's chair, and assumed his hat. The exasperated rabble menaced him with instant death, brandished swords over his head, and pointed muskets and pistols at his breast, but still he kept his place and showed no signs of alarm. The Deputy Kervelegan was seized before his eyes, and despatched by repeated sabre strokes close to the tribune. His colleague Feraud was also murdered, and his head, cut off and stuck on the point of a pike, was carried round the hall and at last halted before the President's chair. Then Boissy d'Anglas, who had hitherto sat calm and immoveable in the midst of the tumult, rose from his seat, took off his hat, and reverently saluted the head of the murdered deputy. But neither the ferocious threats of the infuriated mob, nor the bloody weapons pointed at his breast, could drive him to forsake his post, and his heroic firmness prevented his terrified colleagues from deserting the hall of the Convention. Even over the rabble, drunk with excitement and maddened by the taste of blood, his unshaken calmness and contempt of death exercised a controlling influence, and he maintained his place uninjured until the evening, when the approach of some troops intimidated the mob and induced them to disperse, leaving the Convention to proceed with its deliberations at eleven o'clock at night. It was the most glorious day of Boissy d'Anglas's useful and busy life. Next morning, when he entered the Convention,

he was greeted with enthusiastic shouts of applause, and was solemnly thanked in the name of his country. This famous scene has since been a favourite theme with French historical painters. It has been depicted by Delacroix, Vainchon, Court, and other well-known artists. M. Court's picture is a highly dramatic and powerful work on a large scale. It is the property, we believe, of the French Government. In it, the moment is selected when Boissy d'Anglas is in the act of saluting the head of the murdered Feraud. He is represented as a stately figure with a noble head, with dark hair, and an olive complexion, not unlike the portraits of the great Napoleon.

After the passing of the laws abolishing their order, the former advocates endeavoured to maintain some bond of union among themselves, in hope of better times. But of the 600 names on the roll of 1789, many gave up the profession, about 46 accepted some of the newly constituted judicial appointments; and others were elected members of the National Assembly, among whom were Tronchet, Target, Camus, Martineau, Hutteau, Sanson, and Treilhard. There remained about 150, who, while accepting the new designation of *hommes de loi*, were yet united into a sort of voluntary association, preserving the ancient customs and discipline. They carefully avoided mixing themselves up with the intruders, without talent, and often without morality, who came forward to practise before the new tribunals. Among the most distinguished in this group of former advocates, we find the names of Delamalle, Bellart, Berryer, Billecoq, Delacroix-Frainville, Gairal, and Gicquel.

We have spoken of the new courts created by the revolutionary Assemblies, and shall now proceed briefly to consider their nature and constitution. The administration of civil justice was regulated by the law of August 1790, which entirely altered the existing judicial organization. It introduced arbitration as the chief means of deciding civil suits. Every citizen had the right to plead his own cause. Justices of peace were established, and also judges in the first instance, who, in appeal cases, became judges of the decisions of each other. The law also created courts of police and of commerce.

The revolutionary legislators likewise occupied themselves with the administration of criminal justice, and, in some respects, made important improvements. In October 1789, a decree of the National Assembly established the freedom and publicity of the defence of accused persons, and in the following year measures were taken for the preparation of a law for instituting and regulating trial by jury. The constitution of 3d September 1791 established jury trial in criminal cases, and appointed a supreme national court charged with taking cognisance of the crimes and offences of the officers of the state, which was, however, soon afterwards abolished. The decree of 16th and 29th September 1791 contains a code of criminal jurisprudence, wherein the great principles of public order and of respect for the personal property of citizens are protected by an entirely new body of laws. These, indeed, were susceptible of material improvements, but they bear the stamp of remarkable wisdom and moderation. They regulate the steps necessary for bringing the accused before the tribunals, and create juries of accusation charged with deciding whether the case should be brought to trial, trace the rules of procedure before the criminal tribunals, establish the publicity and liberty of defence, and, finally, accord to those condemned the power of appeal in cassation for any infraction of legal formalities. A subsequent decree abolished the torture, the extension of capital punishment to a great number of offences, secret procedure, and other monstrous abuses that had disgraced the ancient administration of criminal justice. And here it is worth remark, that that atrocious old system had not even the excuse of being produced in barbarous times. Under the earlier kings of France crimes might be compounded for by pecuniary penalties. The laws of Saint Louis make careful provision for the defence of the accused, and—as we have before noticed—even in judicial combats, the presence of advocates was necessary to watch over the regularity of the forms. It was not until the comparatively enlightened period of the sixteenth century that Francis I. increased the severity of punishments and prohibited the defence of the accused by counsel; and from that time, down

to the Revolution, Parliaments and magistrates had shown a strange eagerness to maintain, and even to increase, the severity of the provisions of this system of cruelty and injustice. Bourdin, *Procureur-Général*, demanded still more rigorous punishments than those contained in the ordinance of Villers-Cotterets; in the reign of Louis XIV., when the subject was under discussion, Pussort, a Councillor of State, also argued in defence of these barbarous laws; and, in 1785, the advocate-general Séguier and the Parliament supported them with all their might.[1] The laws of 1789-90 and 1791, which swept away this savage and superannuated legislation, are among the glories of the Revolution, and serve to balance, to some extent, its subsequent excesses and crimes.

The office of public prosecutor was almost the only department of the old system of justice that escaped from the general shipwreck. The two great bodies of advocates and *procureurs* had been abolished, but a commission, appointed to examine into the matter, reported in favour of the maintenance of the office of public prosecutor, which was accordingly recognised by the laws of 1790 and 1791. The new functionaries intrusted with that office received at first the title of *commissaires du roi*, afterwards they became *commissaires de la république* and *commissaires du directoire*.

[1] A brilliant exception to this cruel and short-sighted support of severe criminal laws is to be found in the President Lamoignon, of whom Voltaire says:—"It is an eternal glory for the President Lamoignon to have often opposed the cruelty of the laws regulating criminal procedure, but his voice, which was that of humanity, was drowned by that of Pussort and those of the other commissioners, which were on the side of severity." How enlightened Lamoignon's views were on this subject, and how much in advance of those of the majority of his brother magistrates, may be gathered from the following extract from his speech opposing the law which deprived the accused of the assistance of counsel:—"The granting of an advocate to the accused is not a privilege accorded by decrees or laws; it is a privilege derived from natural law, more ancient than all human laws. Nature teaches every man that he ought to have recourse to the knowledge of others when he has not sufficient to guide himself, and borrow assistance when he is not sufficiently strong to defend himself. Our laws have deprived the accused of so many privileges, that it is highly essential to preserve to them those that remain, and particularly the advocate, who is the most necessary of them all. If we compare our criminal procedure with that of the Romans and other nations, we shall find that there is none so rigorous as that which we practise, especially since the law of 1539."

CHAPTER VI.

Trial of Louis XVI.—Noble conduct of Lamoignon de Malesherbes—Barrère de Vieuzac—The Reign of Terror—Defence of Charlotte Corday by Chauveau-Delagarde—Trial of Marie-Antoinette—Frightful abuses of justice perpetrated by the Revolutionary Tribunals—Self-sacrifice of the advocate Ared de Loiserol—End of the Reign of Terror and reappearance of many of the chief members of the ancient Bar—Establishment of the Academy of Legislation and University of Jurisprudence under the Consulate—Important political trials in which the advocates Bonnet, Bellart, and Billecoq particularly distinguished themselves.

In the great trial of the Revolution—that of the unfortunate Louis XVI.—several famous advocates were engaged. Target and Tronchet were the defenders selected by Louis himself. The former refused, and justified his refusal by the following letter, which appeared in the *Moniteur* of 15th October 1792 :—"After the decree of this morning, it becomes awkward for me to have an opinion on the acts imputed to Louis XVI. It is my duty at least to refrain from expressing it. To that duty I shall adhere. But, burdened with more than sixty years, suffering from nervous complaints, from headache and asthma of thirteen years' standing, and reduced to the most meagre condition by four years of excessive labour, I scarcely retain strength sufficient to discharge during six hours each day the arduous duties of Judge, and I await with impatience the moment of being relieved by the new elections. I have said enough to show that it is impossible for me to undertake the defence of Louis XVI. I possess absolutely no qualifications for such a task; and by my inefficiency I would betray at once the client accused and the public expectation. It is only this moment that I learn, for the first time, that nomination which it was impossible for me

to foresee. My conscience forbids me to accept it. A freeman and a republican cannot undertake to assume functions of which he clearly feels himself incapable." One would scarcely think after this lamentable detail of his miserable state of disease and exhaustion, that Target had afterwards strength to accept the office of Judge in the Court of Cassation; to labour, along with Treilhard, on the improvement of the criminal code; to become a member of the Council of State; and to prolong his existence in spite of the catalogue of diseases which menaced it, to the ripe age of seventy-three. Tronchet accepted the office of counsel to the King. But his most fearless and devoted defender was Lamoignon de Malesherbes. He had studied law, had been a magistrate and a Minister of State, and had retreated to a well-earned retirement in the country, when the trial of the King brought him forth from his seclusion in his seventy-first year, to offer himself as his advocate. In a letter addressed to the President of the Convention in December 1792, he says,—"I know not whether the Convention will give Louis XVI. a counsel to defend him, and whether it will leave the choice to himself. If it does, I request that Louis XVI. may be informed that, if he chooses me for that duty, I shall be ready to discharge it. I do not ask you to communicate my offer to the Convention, as I am far from believing myself a person of sufficient importance for it to occupy itself with me. But I have been twice called to the councils of him who was my master, in times when every one was ambitious of that distinction; I still owe him the same duty, when it is a service which many consider dangerous. Had I known of a possible means of making him aware of my feelings, I would not have taken the liberty of addressing myself to you." The counsel finally intrusted with the defence of the King were Tronchet, Malesherbes, and De Sèze. The pleading was drawn up and read by De Sèze before the Convention, and was signed by Louis, De Sèze, Lamoignon de Malesherbes, and Tronchet. It was an act of rare courage and devotion on the part of the counsel for the unfortunate monarch, who were well aware that their lives would pro-

bably pay for their faithful discharge of duty; and, in fact, it brought Malesherbes to the scaffold; while De Sèze and Tronchet only saved themselves for better days by a timely flight. The following is one of the boldest and most remarkable passages in De Sèze's defence :—"Citizens, I address you with the candour of a freeman : I seek among you judges, I behold only accusers. You would decide upon the fate of Louis, and yet it is yourselves who accuse him! You would decide upon the fate of Louis, and you have already given utterance to your decision! You would decide upon the fate of Louis, and your opinions are notorious throughout Europe! Louis then will be the only Frenchman for whom there will exist neither any law nor any form of justice; he will have neither the rights of a citizen nor the prerogatives of a king; he will derive no benefit either from his ancient state or from his new condition. What a strange and inconceivable destiny!" After De Sèze's pleading, twenty-two days were occupied chiefly with the speeches of the extreme leaders of the Convention; and at nine in the morning of the 17th January 1793, the fatal decision was pronounced by a majority of only five voices in a house of 721 members. The famous Vergniaud was President, and voted for death, though, at a previous sitting, he had voted for an appeal to the people.

We have noticed the courageous defence of the ill-fated King by members of the Bar, but we must also mention that other members of that ancient body took part as his judges, and even voted for his death on the scaffold. Among these the most infamous was the execrable Billault-Varennes, whose name appears on the roll of advocates in 1785. He strenuously opposed the granting of counsel to the King, and exerted himself to the utmost to procure his condemnation. Treilhard, a far more eminent advocate, took an active part in the Convention, and likewise voted for the death of the King, but with a power of appeal to the people. Barrère de Vieuzac, one of the most unscrupulous and blood-stained actors in the Revolution, was also an advocate. He was born at Tarbes in 1755, acquired high distinction at the Bar of his native city,

was elected deputy to the National Convention, and afterwards became a member of the terrible Committee of Public Safety, where he strove to conceal the bloody deeds of his colleagues under the flowers of his rhetoric, and thus acquired the name of the "Anacreon of the guillotine." He was fortunate enough, however, to escape the fate that overtook his associates on the overthrow of the Reign of Terror, obtained employment under Napoleon, and, on his fall, retired to Belgium, from which he returned to France in 1830, and died in peace at the advanced age of eighty-five. An oration in his praise was pronounced over his tomb by M. Lebrun, *bâtonnier* of the Bar of Tarbes. Barrère possessed graceful manners, a quick understanding, great power of work, and remarkable facility in writing. In spite of his sanguinary reputation, he seems to have retained throughout life the attachment and confidence of his fellow-citizens, who returned him to the Constituent Assembly in 1789; to the Convention in 1792; to the Legislative Body in 1804; to the Chamber of Representatives in 1815; and lastly, in 1831, to the Council-General of the High-Pyrenees.

Among the magistrates who took a prominent and active part in the Revolution, and voted for the death of the King, were Hérault de Séchelles, formerly Advocate-General, and Pelletier Saint-Fargeau, one of the presidents of Parliament. Both expiated their crimes in their blood—Saint-Fargeau being assassinated by a former member of the King's Guards, and De Séchelles perishing on the scaffold as an accomplice of Danton in 1794. It is much to the honour of the Parisian Bar that, though its members highly approved of the important judicial reforms of 1789 and 1790 already adverted to, they, with a very few exceptions, deeply lamented the subsequent excesses of the Revolution, inaugurated by the judicial murder of Louis XVI., and continued to retain that sentiment of liberty united with a wise regard for authority, which has ever been their distinguishing characteristic.

We have now come, in our sketch of the French Bar, to that terrible period, lasting for about two years, and justly denominated the Reign of Terror. In it, too, as in most

great public movements, we shall find the members of the Bar playing a conspicuous part, not indeed,—with the exceptions already mentioned,—as sharers in the sanguinary atrocities of the period, but as the heroic defenders of those who were arraigned before its blood-thirsty tribunals. Among the chaotic mass of the revolutionary laws,—of which there are 440 relating to emigration alone,—many may be pointed out equally remarkable for folly and immorality, and even these bad laws were badly administered by the ignorant and incapable judges who were entrusted with their application. One law of September 1792 loosened the family tie by making marriages dissoluble at the pleasure of the spouses, giving them, at the same time, the power of reuniting themselves if they should change their minds and think fit to do so. The effect of this was, that it was quite common to see marriages made, unmade, and then celebrated over again. Another law put an end to all testamentary dispositions, and enacted an equal division of property; while a third placed illegitimate children on an equal footing with legitimate ones; so that a man's children by his mistress were in just as favourable a position as those by his wife.

We have said that several advocates showed praiseworthy courage and devotion in defending those accused before the criminal tribunals of the Reign of Terror. Among the most remarkable of these cases, was that of Charlotte Corday for the assassination of Marat. She was defended by Chauveau-Delagarde, whose pleading in her favour, though very short, is yet characterized by vigour and dignity. "The accused," he said, "calmly avows the horrible action which she has committed; she calmly avows its long premeditation; she avows the most frightful circumstances; in short, she avows all, and does not even seek to justify herself. Behold, citizens-jurymen, her whole defence. That imperturbable calm and that entire self-abnegation which show no trace of remorse, even in the very presence of death, in one point of view are not natural; they can only be explained by the over-excitement of political fanaticism which has placed the dagger in

98331

her hand. It is your duty, citizen-jurymen, to judge what weight that moral consideration should have in the balance of justice! I confide in your wisdom." This defence was perfectly in accordance with the heroic spirit of Charlotte Corday, who thus thanked her advocate after her sentence of condemnation had been pronounced:—"You have defended me in a generous and delicate manner; it was the only proper defence. I thank you for it; it has made me have a regard for you of which I wish to give you a proof: these gentlemen inform me that my property is confiscated; I owe something in the prison, and I leave to you the payment of the debt." Chauveau-Delagarde along with Tronson-Ducoudray also defended Marie-Antoinette. He likewise defended Madame Elizabeth; and for having thus courageously discharged his duty he was twice imprisoned, and was only saved from the scaffold by the overthrow of Robespierre and the end of the Reign of Terror. One of the most horrible acts of that reign was the reorganization of the revolutionary tribunal upon the report of the infamous Couthon. The sole punishment which the new courts could inflict was that of death, which was denounced against those who abused the principles of the Revolution by false and perfidious applications; against those who spread abroad false intelligence; against those seeking to hinder the instruction of the people and sully the purity of revolutionary principles; against unfaithful contractors; and against many comparatively venial crimes. Article 16 declares that the law gives patriotic juries as defenders to calumniated patriots, although it accords none to conspirators. Under this law, innumerable cruelties and flagrant abuses of justice were perpetrated in Paris; of which a vivid picture is given in the following extract from the judgment pronounced against Fouquier-Tinville after the fall of Robespierre:—The verdict of the jury finds unanimously that it is proved against him that he has been guilty of having had recourse to plots and stratagems before the revolutionary tribunals, in order to procure the death of an innumerable multitude of French citizens, of all ages and of

both sexes; that he has done so by getting up imaginary conspiracies; "by preparing, in concert with certain members of the ancient committees of Government, drafts of reports upon these pretended conspiracies, calculated to deceive the justice of these committees and of the National Convention, and to draw from them sanguinary enactments and decrees; by mixing up in the same indictment, bringing before the courts, and delivering over to punishment, a number of persons of all ages, and countries, of both sexes, and absolutely unknown to each other; . . . by trying in two, three, or four hours at the most, thirty, forty, fifty, and even as many as sixty individuals at the same time; by ordering the tumbrels for taking the condemned to the place of execution early in the morning, and long before the accused were brought before the court; by not designating the accused in the indictment in a clear and precise manner, so that, owing to this confusion, the father has perished for the son, and the son for the father; by not making the accused aware of the nature of their indictment, or furnishing them with a copy of it only when they came before the court; by leaving, before the drawing up of the judgment, blank signatures in the hands of the clerk of court, so that several persons are found mentioned in the preamble and introduction who are all executed, and yet against whom there exists no judgment of the court; by neglecting to write, or cause to be written, the verdict of the jury below the questions which were submitted to them; which two last prevarications, necessary consequence of the criminal precipitation of the judges in the exercise of their functions, have given rise to a multitude of errors and mistakes, as has been fully proved; by refusing to hear the accused and their counsel, and only summoning them by name, age, and quality, and denying them all defence; by procuring, under pretence of a revolt which never existed, decrees depriving the accused of the right of defence by counsel; by neglecting to put the questions for the decision of the jury in the presence of the accused; by selecting the jury instead of leaving them to be chosen by lot; by substituting for the jurymen whose turn

it was to serve, other jurymen picked for the occasion; by trying and condemning the accused without either oral or written evidence against them, and neglecting to examine the documents produced for their conviction or justification; by refusing to hear the witnesses brought forward; by sentencing prisoners and sending them to execution before the arrival of the witnesses and documents necessary for their trial; by sending to the place destined for the punishment of a number of the accused, and leaving exposed there, during the time of their execution, the corpse of an accused person who had stabbed himself during the pronouncing of his sentence; by proposing to bleed the condemned in order to enfeeble the courage with which they met death; by corrupting public morality by the most atrocious remarks and the most sanguinary speeches; by keeping up connexion, correspondence, and intercourse with conspirators already liable to the penalties of the law." Certainly a terrible description of the fearful corruption of law and justice, where the supreme power in the State had passed into the hands of the lowest rabble and the demagogues who led them!

A noble instance of devotion was given by the advocate Ared de Loiserol, who was arrested during the Reign of Terror and imprisoned along with his son. Father and son occupied the same apartment in the prison. The son was first brought before the revolutionary tribunal and condemned to death. When they came to summon him he was buried in sleep; but his father answered for him, and perished, a victim to his paternal affection, the night before the fall of Robespierre.

After the law which we have already mentioned denying the assistance of counsel to those accused before the revolutionary tribunals, another law was passed by the Commune of Paris, refusing to all who had not a certificate of citizenship the privilege of an appeal to the courts of their country. This still further limited the right of pleading; for it was dangerous to apply for the necessary certificate, as its refusal rendered the applicant liable to be sent before the revolu-

tionary tribunals. After the passing of this law, therefore, most of the advocates sought safety in flight, or took office in some department of the public administration. At length, in July 1794, the Reign of Terror came to an end, and Robespierre, Saint-Just, Couthon, and others who had so long ruled France with a rod of iron, and deluged her with the blood of her children, expiated their crimes on the scaffold. For some years afterwards, the country was in a state of confusion—disorganized, desolated, and impoverished by civil and foreign wars. But the provisions of the several constitutions that rapidly followed each other, did much to insure a better and purer administration of civil and criminal justice; though it was some time before the law of September 1790, abolishing the profession of advocate, was repealed. The liberty of defence was, however, restored. In 1796, many members of the old Bar began again to practise in the courts; and, in the next year we find a printed list, under the republican title of *hommes de loi*, of 305 advocates, increased in the following year to 345. Among these, we recognise the distinguished names of Bellart, Bonnet, Billecoq, Gairal, Blaque, Carbonier, Guéroult, Roy, Thévenot, Taillandier, Tripier, Delacroix-Frainville, Berryer, and several other ornaments of the ancient Bar. The Palais de Justice, too, became, as before, the place where all the different courts held their sittings, with the exception of the Tribunal of Commerce.

The Constitution of 1799 virtually abolished the French Republic, and established in its stead a Consulate. It also brought about a judicial reorganization, and the Bar—whose members had all along kept up the spirit of brotherhood and some degree of discipline—began again to consolidate itself. In the winter of 1800, the profession was greatly scandalized by a circumstance arising out of the intimacy subsisting among its members, and the perfect confidence they reposed in the honour of each other. An advocate of the name of Gatrez—an able man, but addicted to raillery and practical jokes—one day called upon Blaque, and informed him that he had been consulted by the poultry merchants of

the town of La Flèche, in a question with the poultry merchants of Le Mans, in regard to a monopoly objected to by the latter. He showed a memoir, signed by himself, for the merchants of La Flèche, stated that he had confined himself to inducing the objectors to present a petition to the Minister of Police, and concluded by asking Blaque for his signature. Blaque somewhat rashly signed the paper upon the statement of Gatrez, and the latter, fortified by this signature, proceeded to call upon a number of other advocates. To those who desired to read the document that he wished them to sign, he answered that he would call again; but from the rest of his brethren he obtained twenty other signatures, among them some of the most illustrious names in the profession. He forthwith printed the memorial with these names attached; and, to the astonishment and horror of those who had signed it, and to the scandal of the whole body of advocates, it turned out to be a pasquinade of twenty-four pages, entitled *Question of State for the fat pullets of La Flèche against those of Le Mans*, full of the most incredible absurdities, narrated in a style of pompous burlesque. Cicero, Julius Cæsar, Theseus, Achilles, Arria, Lucullus, Voltaire were referred to, and nothing was left undone to compromise the too confiding signers of the document. The ridicule was inevitable; but the Bar drew from it the useful lesson never to give signatures in judicial affairs as a matter of confidence, and without knowing what they were signing.

The schools of law had been swept away, along with the legal profession, by the Revolution. But, under the Consulate, they were revived, and two important institutions—the Academy of Legislation and the University of Jurisprudence—were established, many eminent members of the Bar being numbered among their officials and professors. These two establishments did much to diffuse scientific and correct views of law, from the time of their inauguration down to the period when they were superseded by the creation of other seminaries for legal instruction.

During the Consulate, many political trials took place,

which gave occasion to Bellart, Bonnet, Billecoq, and other members of the ancient Bar, to distinguish themselves by their eloquence, learning, and independent spirit in defence of the accused. To a few of these we shall now briefly advert; and the first that we shall notice is that of Mademoiselle de Cicé, accused of complicity in the affair of the infernal machine, which killed and wounded upwards of seventy persons, and from which Buonaparte himself narrowly escaped. Mademoiselle de Cicé was a sister of the former Archbishop of Bordeaux and the former Bishop of Avignon, who had both been compelled to emigrate from France, while she herself had taken up her residence in Paris in 1791, and had distinguished herself by her devotion and acts of charity. Unfortunately, however, Carbon, one of the conspirators, had lived in her house; and, on her papers being seized, a considerable correspondence with her emigrant relations, and also several anonymous and mysterious letters were discovered. With regard to these last-mentioned documents, Mademoiselle de Cicé preserved a resolute silence, which afforded a strong point to her accusers. She was defended with admirable eloquence and skill by Bellart, who was thoroughly convinced of her innocence, and who was successful in convincing the jury of it likewise. His pleading concludes in the following terms:—"Ah! certainly, let the victims of this crime be avenged . . . But avenge them with the blood of the guilty. No vengeance would it be for them—but a fresh misfortune —a deeper sorrow—if, with the guilty blood shed for their sake, there should be mingled the blood of the innocent. The crime of the 3d December has made orphans—restore to society her who, during thirty years, was the mother of orphans; that crime has made widows—restore to society her by whom widows were succoured and consoled; that crime has plunged many in poverty—restore to society her who, if it had been in her power, would not have left a single poor person; that crime has wounded many—restore to society her to whom so many wounded and infirm owe their cure; that crime, in short, has even struck down one of our brothers

in arms—restore to society her who, in her universal charity, has sometimes been able to impart valuable assistance even to our defenders. I have sworn, gentlemen of the jury, to defend Adelaide de Cicé with a strict adherence to truth; I renew my oath: I have discharged my duty. You have sworn to listen to no prejudice, and to acquit the innocent; you will discharge yours." This case marks the culminating point and the close of Bellart's successful forensic career. His unwearied exertions and impassioned appeals for his client proved too much for his strength. He almost lost his voice, and was compelled to retire from the strifes of the Bar. As the chief of the Crown Counsel after the restoration, he played a distinguished part, though some accused him of being too severe, and of not giving sufficient liberty to the advocates for the defence.

Towards the end of the Consulate, a law was passed abolishing juries in the case of criminal attempts against the person of the First Consul and the security of the State, and a special tribunal was appointed for the trial of such offences. Before this tribunal, Georges Cadoudal, Armand and Jules de Polignac, the Marquis de Rivière, Pichegru, Moreau, and about forty other accused, were brought, in the beginning of 1804, charged with a conspiracy against Buonaparte. Cadoudal was defended by Dommanget; Armand and Jules de Polignac by Guichard; Moreau by Bonnet; and the Marquis de Rivière by Billecoq. It is with the defence of Moreau that we intend chiefly to occupy ourselves. The accusation directed against him went over a vast field, embracing almost the whole of Europe. In reply to it, Bonnet spoke for six hours, with but an hour's intermission. The exordium of his pleading was the only part prepared. It is as follows:—"General Moreau is in chains! By the greatest and most signal services, by the most brilliant victories, by the most important conquests, by the rescue of several armies, he has, doubtless, acquired no right to betray his country, to overthrow a government, to excite civil war; we cannot acquire the execrable right of rending the bosom of our native country; we

repudiate the idea of such a frightful compensation; but these exploits, these conquests, that heroic and limitless devotion, so much valour, so great a number of victories, so many favourable precedents, joined to twenty-five years of integrity, shall they avail naught for the justification of an illustrious accused? No, gentlemen; reason, justice, and feeling forbid a system dictated by thoughtlessness and ingratitude." Bonnet was several times interrupted by the President and the *Procureur-Général* Gérard in the course of his pleading; and perhaps the finest passage in his defence was the crushing reply which he made to an interruption of the latter official. He had been exculpating Moreau from having sought to overthrow the Directory, — which he characterized as "that evil and detestable institution of the executive power shared among five persons,"—when the *Procureur-Général* interrupted him by exclaiming, "It is not governments that we must look to, it is always justice; and whenever a person opposes himself to the interests of the country, he violates his duty,—he is a traitor!" To which Bonnet instantly replied, "*M. Procureur-Général*, permit me to tell you that Moreau has pretty well proved that he was not a traitor to his country; none of us in that respect has given such sublime proofs. Neither you nor I, *M. Procureur-Général*, directed the campaigns of the years IV. and V.; neither you nor I have beaten in so many engagements the enemies of our country; neither you nor I have counteracted by so many victories the conspiracies of Pichegru; neither you nor I have annihilated those who wished to fight against and betray the country; neither you nor I made the admirable retreat from Germany, nor that from Italy, and saved three armies; neither you nor I, by achievements, by victories over several hostile armies, have paid so amply our tribute of affection and devotion to our native land." Moreau was condemned to two years' imprisonment. Napoleon was anxious that he should have been sentenced to death, and had promised the Court in that case to pardon him. On learning this, Clairer, one of the judges, made the admirable remark, "He will

pardon him? But who will pardon us before the tribunal of posterity?"

The following letter with regard to the trial of Moreau, written by Bonnet to a friend at the Bar many years after the event, cannot fail to be read with interest:—"It then needed," he says, "some courage to undertake the defence of General Moreau: it also needed some prudence to defend him with success. You know what a mortal hatred the all-powerful Emperor bore him. You know that, in the midst of his immense glory, he had the littleness to be jealous of that of the victor of Hohenlinden, and that he wished his destruction. I may bear this testimony in my own favour, that in this difficult undertaking I thought much more of my client than of myself; much more of saving his life than of acquiring for myself a title to glory. You will now be able, on reflection, to see that it was out of the question in the affair to borrow interest from the interest of the historical associations connected with it; much less, still, to rouse or even to second the popular feeling which protected Moreau. Ah! doubtless there were words very easy to say in favour of him who had been one of the glories of France, and which alone ought to have been sufficient for his defence. Ah! my God, these very words, they were easy to find, as you say; these very words, these oratorical outbursts, I was oppressed with them; they stifled me, so to speak, and yet I was compelled to restrain them. It was the price of the safety of my illustrious client. His head would have answered for the least effort which was not restricted to a logical and purely judicial discussion. As to myself, I was surrounded by a council of the General's friends, chiefly Bretons like himself, who thought only of the safety of their friend, and who rightly recommended, as the only method of attaining it, the use of judicial means alone. In a word, his safety, was our sole object, and we obtained it. You gentlemen of the present *régime* speak very much at your ease, as under it anything except an intolerable license is without danger for the client and for the advocate! But transport yourselves thirty years back; put yourselves in our places,

and judge us. Yes, if I had not decided on self-abnegation, if I had risked some of these outbursts calculated to animate and to rouse the audience and the public, they would have silenced me, or rather would have decided on the condemnation of the accused. As to the state of my mind at that moment, you may judge by that reply, which you are good enough to term sublime. . . . It was not my will which allowed the internal fire which devoured me to escape. It was the imprudent provocation of the prosecutor, which, by a rash interruption, conquered the efforts which I made to confine myself to argument. Would you learn, sir, the danger which Moreau would have incurred if the defence had been conducted with brilliant imprudence? A day or two after my pleading, the question was discussed in the Emperor's privy council, whether that pleading and some other circumstances should not give rise to a vigorous measure against the Bar. Buonaparte wished to arrest those audacious individuals who, he said, employed, in the defence of a guilty great man, means calculated to disturb public order. However, some members of the council, and especially the Archchancellor, M. Cambacérès, and M. Dubois, then Prefect of Police, represented that a certain liberty must be accorded to the defence, of which we had scarcely exceeded the prescribed limits. They recalled the arrest; and it was determined to substitute for it a vigorous reprimand, accompanied with a distinct threat of some severer measure. My friend Bellart and myself were consequently summoned before the Grand Judge,—I have yet the invitation,—and then the excellent M. Regnier, much more embarrassed than those summoned before him, in the name of his Majesty the Emperor, gave us in grave but polite terms a severe rebuke for the past, and an injunction to be more circumspect for the future, if we valued our safety."

In the case of Tonniges, where the forging of a will was alleged, Bonnet made a determined stand for the right of the counsel for the defence to attack both the evidence and the characters of the witnesses for the prosecution. For this, and because he was supposed to be hostile to the existing Govern-

ment, he was fiercely denounced by the *Procureur-Général* Legoux, who demanded that he should be publicly censured, and suspended from exercising his functions for a year. Bonnet, however, successfully defended himself against this attack; and the decision of the Court formally approved of the principle for which he had contended,—that "the law permits the accused and their counsel to speak, both against the witnesses personally and against their testimony, all that they believe to be useful to the defence." Bonnet died in December 1839, having nearly attained the ripe age of eighty. He was in all respects an ornament to the Bar. There have been lawyers more learned, more eloquent, more impassioned, but scarcely one who has united in his own person so many of the qualities that combine to form an accomplished advocate. He was distinguished by a natural grace of manner and an unaffected gaiety which he retained to the last. On his deathbed he remarked: "I have been constantly happy; I would not wish to cut off a single day from my life."

We shall mention one other celebrated case—that of Dralin—before proceeding with the history of the Bar under the empire and the restoration. A rich and noble family had been forced by the misfortunes of the Revolution to quit Paris. Its head was a distinguished magistrate, whose only daughter, Claire, was left behind with her near relations, in the hope that her presence might save part of the fortunes of the family. Soon, however, these relations were also forced to fly, and the child was left with a former steward of her father, named Dralin, who got himself appointed her guardian. Dralin had a son, a debauched fellow, thirty-two years old, by whom the young girl, then only fifteen, was seduced. Subsequently, the father of the seducer was legally deprived of his office of guardian, and a family council, ordered by the judges to consult about a marriage, rejected it with horror and indignation. Their decision was impugned. Bellart appeared in the name of a new guardian, and maintained the cause of the family and of morality against the heartless seducer and the miserable victim of his seduction. When he came to narrate how the child of

fifteen had been seduced by the man of thirty-two, and how she was pregnant by him, a shudder ran through his audience, upon which the accomplished advocate exclaimed: "All you who hear me, and you also, judges, are frozen with horror; in spite of the impassibility of your office, in spite of the austere impartiality which does you honour, you cannot resist the natural indignation which seizes you!. . . . Ah! suffer me to feel, suffer me to reap the benefit of that consoling and virtuous sentiment! It is not my feeble efforts which it honours! Alas! I admit it; I have no need of the eloquence which I want, to make a profound impression on your hearts; all the honour belongs to your own virtue, which, in listening to a narrative simply and artlessly laid before you, has inspired you with those emotions which innocence struggling with crime is fitted to excite. What heart so barbarous as not to experience them? Ah! pardon me gentlemen, mine also is affected like yours, and I feel that I need to suspend for some moments this defence, in order to recover the coolness and moderation which I ought to compel myself to preserve."

The defender of the daughter Claire had pleaded that, for the sake of her honour, her family ought to consent to her marriage with her seducer. To this Bellart made the following telling and brilliant reply:—"Ah! unhappy child, you would recover honour! What honour can you hope to find in your alliance with a wretch whose honour you cannot restore?—with a wretch for ever covered with opprobrium and contempt in the eyes of all who are not as depraved as himself? You would fain be happy! Will you be so with a scoundrel whose heart must be the receptacle of every vice, since he respects neither God nor man, nor childhood, nor innocence, nor the ties of blood, nor misfortune? Will you be honoured as the wife of a vile being, from whom every mother will fly with her daughters as soon as he shows his hateful aspect; whose society good men will shun in order not to be suspected of thinking as he does? Will you be happy as the wife of a barbarian who knows no other means of accomplishing his odious purposes than to blight by turns

the unhappy objects of his criminal love, and who, everywhere extending his libertine desires, does not even respect the nieces of his mother? He has begun by incest and sacrilege, think you that he will not end by adultery and other crimes?" Bellart gained his case, and the judgment of the Court forbade the marriage to proceed. But when Claire came of age she married her seducer, and the result may be given in the words of the terribly significant note attached to Bellart's pleading:— "The event has realized, in the most cruel manner, my sinister prediction. Truly crimes spring from that marriage which is contracted under the auspices of crime. Oh divine justice! After numerous quarrels between the husband and wife with regard to the administration of their fortune, the husband one night cut his wife's throat on the cradle of one of their children, and then committed suicide."

CHAPTER VII.

Napoleon establishes Schools of Law in Paris and in the chief Provincial Cities, reorganizes the Bar, and codifies the Laws of France—Important labours of Portalis—the advocate Ferey bequeaths his Library to the Parisian Bar—Napoleon's jealousy and distrust of the Bar—His decree reorganizing it places it entirely under the control of the Minister of Justice—Relations of *le Ministère Public* and the Bar—M. Berryer's remarks on the subject.

LAW schools, on a firm and well-regulated basis, were established by Napoleon, during his consulate, in Paris, and in several of the chief cities of France; the profession of advocate was restored, though under severe restrictions; and a wise and comprehensive code of civil law was drawn up. In the last of these reforms he was greatly assisted by the learning and indefatigable labours of Tronchet, Bigot de Préameneu, Simeon, Portalis, De Malleville, and other members of the French Bar. This was the first step in the important work of codifying the confused mass of French laws and customs, and it was speedily followed by others in the same direction. The Civil Code was promulgated at intervals during the years 1803 and 1804. The Code regulating the forms of judicial procedure in civil cases appeared in 1805; the Commercial Code in 1807; the Code of criminal procedure in 1808; and the Penal Code in 1810; forming together the great legislative work of the consulate and the empire.

Portalis was perhaps the ablest lawyer and most upright and accomplished man concerned in the preparation of the *Code Civile*. He was born in 1746, at Bausset, in the neighbourhood of Toulon, and his public life may be said to have commenced during the calmer period that succeeded the orgies

of the revolution, when the nation, tired of change, longed for nothing so much as stability and repose. He pursued his earlier studies at the College of the Oratorians at Toulon and at Marseilles, distinguishing himself by great assiduity, singular fluency of speech, and a precocious maturity of judgment. At nineteen, he became one of the advocates attached to the Parliament of Aix—one of the thirteen independent Parliaments then existing in France—and he speedily rose to the head of the provincial Bar, where he introduced considerable improvements both in the style of speaking and the method of procedure. He remained at the Bar of Aix for more than twenty years, and, during the greater part of that period, there were few cases of importance in which he was not employed. In 1783, he greatly increased his reputation by his successful opposition to Mirabeau before the Parliament of Aix, in the process of divorce brought against him by his countess. Mirabeau pleaded his cause in person, much to the disgust of the proud old aristocrat his father, which found vent in a letter written to his brother on the occasion. "Behold," he says, "M. the Count at his apogee; he is about to plead in person, and doubtless they will say that it is very fine, and that he is as much above his brethren, the other word-mongers, as stars are above corn-poppies." Mirabeau displayed great power and eloquence in pleading his case, but he was vanquished by the superior coolness and skill of his more practised opponent. It was a strange chance that thus brought into opposition two men so different in birth, character, and disposition—the one destined to inaugurate the revolution, the other to be among the most prominent actors in the work of putting an end to it, by restoring the reign of law and order. In the year 1788 —the year of the downfall of the ancient Parliaments—Portalis drew up the protest for the Bar of Aix against the royal edicts emanating from the minister, Brienne-Lamoignon, which overthrew the old judicial system.

At this period of his life, he seems to have been strongly in favour of the antiquated parliamentary *régime*, with its variety of jurisdictions, courts, and customs, and strongly opposed to

uniformity of legislation, as unsuited to the state of France. "Uniformity of legislation," he says, "has always been one of the great means of preparing the way for despotism. . . . In a vast monarchy like France, of which the Government is at once commercial, religious, military, and civil, and which is composed of various peoples, governed by different customs, it is impossible to have one complete body of legislation." Portalis kept himself apart from the Revolution, of whose excesses he disapproved, but remained in France during its progress, though frequently menaced with death, and incarcerated for some months in one of the prisons of Paris, from which he was not released until the close of the Reign of Terror. His first effort, after his release, was made in the cause of humanity. It was a pamphlet, entitled *De la Révision des Jugemens*, whose object was to call for a revision of the confiscations which had followed upon the sentences pronounced during the Reign of Terror. He gives the following striking picture of that terrible period:—"They prosecuted talent, they feared science, they banished arts; fortune, education, amiable qualities, graceful manners, a handsome countenance, an elegant figure, a cultivated mind, all the gifts of nature, were so many infallible causes of proscription. . . . By a sort of hypocrisy, unknown until our days, men who were not vicious held themselves bound to appear so. . . . They feared even to be themselves; they changed their name; they disguised themselves in coarse and disgusting costumes; every one dreaded to be like himself." In 1795, Portalis became a member of the Legislature, and, on account of his age, sat in the Council of Ancients, where he was conspicuous for his moderation, wisdom, and humanity. One of his greatest speeches was delivered in favour of the priests,—about 20,000 persons—who had remained true to the orthodox faith, and to whom it was proposed to apply an oath which was contrary to their convictions, and which placed them between the unpleasant alternatives of falsehood or proscription. The eloquence of Portalis caused the oath to be rejected by the Council of Ancients. But such conduct

brought suspicion on him as a royalist, and he was included in the proscriptions of 1797, and compelled to become an exile from France, to which he did not return until the beginning of the year 1800, when the Directory had been overthrown, and Buonaparte appointed Consul for ten years. He was almost immediately made Councillor of State; and from that time to his death was constantly engaged in the preparation of the Civil Code and of the Concordat. His writings on these subjects have been published by his grandson, and form two volumes 8vo, under the title of *Discours et Rapports sur le Code Civil,—sur le Concordat de* 1801. The Portalis of the Civil Code is very different from the Portalis who, before the Revolution, drew up the remonstrance of the Bar of Aix against any change in the old judicial system. He admits the necessity of change, the possibility of uniformity in legislation. In three discourses he admirably explains the theory of the Civil Code, and exhibits the most scrupulous care to reconcile written and consuetudinary law, and to decide between the claims of reason and justice, and the authority of long-established customs. He not only took a prominent part in drawing up the Civil Code, but also in defending it against the many attacks by which it was assailed on its first appearance; and among his most brilliant and effective writings is a reply to one of the bitterest and most unscrupulous of these assailants. The Concordat of 1801 was chiefly the work of Portalis, and his speech connected with it, delivered in the Corps Législatif, is one of his happiest efforts. Portalis was for some time Minister of Worship, and enjoyed in a high degree the confidence and esteem of Napoleon. He died, after a short illness, in August 1807, at the age of sixty-one; and, as the first of the great civil functionaries who died under the Empire, was honoured with a magnificent public funeral.

The public life of Portalis did not commence until he was more than fifty years of age, and, during the whole period of his great labours as a jurist and politician, he was almost totally blind, unable either to read or write. But his extra-

ordinary memory supplied this defect, which would have proved a fatal hindrance to the usefulness of the great majority of men. He possessed the gift of improvisation or impromptu speaking in a high degree, and his fluent, weighty sentences rolled on without stop or difficulty. He seems to have had one fault, however, which Napoleon characterized in a single pregnant sentence, when he remarked that "Portalis would be the most agreeable and eloquent of orators, if he knew when to stop." The following instances of his marvellous powers of memory are recorded by his friend, General Mathieu Dumas:—"I was appointed Secretary to the Council of Ancients when my friend Portalis was elected President, and I had frequent opportunities of admiring his high talents and his prodigious memory. His almost absolute blindness rendered it an impossibility for him to read or write: he, not the less, followed all the movements of the Assembly, maintained order with firmness, and, knowing the place of each member, and wonderfully distinguishing the sound of each voice, he never made the slightest mistake in according or refusing permission to speak. If the debate happened to be interrupted by the arrival of a message from the Council of 500, or from the Directory, it was sufficient for me to read it once over to him in a low voice to enable him to deliver the resolution to the Assembly, however numerous the articles might be, without altering their arrangement, and without changing a single expression."

In 1806, Ferey, one of the oldest and most learned members of the Bar, and the only member of it honoured by Buonaparte with the Cross of the Legion of Honour, left to his brethren his extensive and valuable collection of books, and thus became the second founder of the library of the Parisian Bar, which had been confiscated at the Revolution, but which now contains about 30,000 volumes. In February 1810, a solemn service was celebrated by the advocates, in the church of Saint-Paul, in honour of Ferey, after which a splendid oration in his praise was delivered by Bellart. Ferey, in his testament, had bequeathed his library to his order, "under whatever name it

may please his Majesty the Emperor and King to re-establish it." Of these words Bellart, in his *éloge* of Ferey, made an adroit and clever use, and strongly urged the complete restoration of the Bar; and his aspirations, and those of Ferey, were fulfilled not long afterwards, though only imperfectly, by the decree of December 1810, which re-established the order of advocates, but placed it under severe and somewhat degrading restrictions. In fact, Napoleon always hated and distrusted advocates—that is to say, *avocats plaidants*,—for, to many eminent jurists and consulting advocates he showed much favour. But he feared the free speech of the pleaders, and neither forgot nor forgave the intrepid defence of Moreau, of the Marquis de Rivière, and of others of his political enemies, by some of the most eminent of their number; and besides, in Paris only 3 advocates out of 200 had voted affirmatively for the resolution establishing the Empire in 1804. He therefore showed great reluctance to re-establish the order, and M. Dupin, in his edition of the *Letters of Camus*, quotes a note of the Emperor's, in which he says, with reference to a decree for the reconstitution of the order, presented to him by Cambacérès :—"This decree is absurd, and leaves no hold over, no action against them: they are framers of crimes and treasons. As long as I have a sword by my side, I shall never sign such a decree. I wish that one could cut out the tongue of an advocate who employs it against the Government." From this it may easily be imagined that a decree sanctioned by a monarch holding such sentiments with regard to advocates, was not likely to be very favourable to the Bar; and, indeed, the decree of 14th December 1810 placed it almost entirely in the power of the Government. The protocol, however, is conceived in terms highly honourable to the order. "When we occupied ourselves," it says, "with the organization of the judicial order, and with the means of securing to our courts of justice the high consideration which is their due, a profession which exercises a powerful influence upon the administration of justice, attracted our attention. We consequently ordained, by the law of 22d March 1804, the re-establishment

of the roll of advocates, as one of the means calculated to maintain the integrity, the delicacy, the disinterestedness, the desire of conciliation, the love of truth and justice, the enlightened zeal for the weak and the oppressed, which are the essential foundations of their order. In now retracing the rules of that salutary discipline, of which the advocates showed themselves so jealous in the palmy days of the Bar, it is proper, at the same time, to insure to the magistracy the superintendence which should naturally belong to it over a profession with which it is so intimately connected. We shall thus have secured the liberty and the nobility of the profession of advocate, by fixing the limits which ought to separate it from license and insubordination." The decree which succeeds accords but badly with these high-sounding words. It deprives the Bar of the privilege which was so dear to it, and for which it had often and successfully contended,—that of being exclusive master of its roll. With regard to this point, article 4 places the roll practically in the hands of the President and *Procureur-Général* of the Court, and of the Minister of Justice. Another article forbids advocates to plead beyond the limit of their own court without authority from the Minister of Justice. Article 12 fixes the stage, or period of probation, at three years; and article 14 makes an oath of obedience to the constitution of the empire, and of fidelity to the Emperor, a necessary preliminary to entering on the period of probation. The election of the council of discipline is also practically placed in the hands of Government, for it is enacted by article 19, that the advocates shall be convoked by the *bâtonnier*, in order to name thirty candidates for the council of discipline, but that the fifteen who are to form it shall be chosen by the *Procureur-Général*, who is also authorized, by article 21, to choose the *bâtonnier*. The penalties which may be inflicted by the Council are warning, reprimand, censure, temporary interdiction, and erasure. The advocate subjected to the last four may appeal to the Imperial Court. The order is forbidden to assemble except upon the summons of the *bâtonnier*, and for the election

of candidates for the council of discipline. Any meeting for other purposes is declared illegal and punishable. If any attack is made, orally or in writing, on the constitution of the empire, or the established laws and authorities, the Court is empowered to pronounce disciplinary penalties; and the body of public prosecutors is enjoined to watch over and answer for the execution of this particular. The Minister of Justice may, on his own authority, inflict these penalties upon an advocate. Advocates are enjoined to note their fees at the end of their opinions, and to give a receipt for those they shall receive for oral debates. It will thus be seen that, though the order was nominally re-established, it was really stripped of its most ancient, honourable, and essential prerogatives by this imperial decree, and placed, bound hand and foot, in the power of a set of government nominees. The President of the Imperial Court, the *Procureur-Général*, the Minister of Justice, the Crown Counsel generally, had complete and almost irresponsible power over the Bar. As M. Gaudry truly remarks,—"To give to the Minister of Justice the arbitrary and irresponsible power of striking the name of an advocate from the roll, was not merely cutting out the tongues of the advocates, it was conferring the power of killing them." But hard as these terms were, the Bar was obliged to submit; and, in the beginning of 1811, the roll of the order and the council of discipline were made up in terms of the decree. Delamalle was the first *bâtonnier* under the new *régime*, the number of names admitted to the roll was 324, and, in conformity with the ancient practice, before the abolition of the order in 1790, the members of the Bar were divided into six columns, at the head of each of which two members of the council of discipline were placed.

From this time, perhaps, we may date the frequent disputes and antagonism between the Bar and the Crown Counsel, or *Ministère Public*. The decree of 1810 placed the Bar, to a great extent, in the hands of the *Procureur-Général*, the chief of the *parquet* or body of public prosecutors, and thus conferred a power which could scarcely fail to be abused. Ac-

cordingly, we find disputes constantly arising, especially in political cases, between the counsel for the Crown and for the defence—the former seeking to circumscribe the immunities of the defence within the narrowest limits; the latter claiming, in the name of justice and humanity, the widest scope, and insisting on their being entitled to use the same weapons, as fully and as freely in defence, as the public prosecutor is entitled to use them in attack. Even now, the power and encroaching spirit of the *Ministère Public* are felt and complained of by the Bar, and gave occasion, a few years since, to the publication of a clever and well-written work—entitled *Le Ministère Public et le Barreau, leurs droits et leurs rapports*—in which the rights of the accused and of their advocates are set forth and defended with equal justice and ability, and the encroachments of the public prosecutor severely exposed and denounced. To this work is prefixed an eloquent introduction from the pen of the late M. Berryer, the chief ornament of the modern French Bar, in which that brilliant orator makes a noble stand for the liberties of the defence. "There are rights," he exclaims, "which humanity demands, principles become axioms in the public mind, guarantees which universal opinion has consecrated in the name of justice, and which none would now dare openly to violate or deny. On the occasion of our judicial solemnities, in the studied language of elaborately prepared orations, we still hear magnificent laudations *of the free defence of the accused*, and of the noble profession *of defenders of the widow and of the orphan*. These are, truly, capital texts for harangues, where generous theories are developed under the glitter of rhetorical ornaments. Wherefore, then, do they fail to be sanctioned when they are attempted to be put in practice? They understand then how to impose, with lamentable skill, so many restrictions upon principles loudly proclaimed, they place such arbitrary limitations on the free and animated conduct of judicial debates, that, of the high-sounding doctrine, there remains only a fawning speech fettered by curbs and shackles. The independence of the Bar would be merely an unmeaning word, and

would soon take its place beside those pompous titles of nobility bestowed in states where nobility is only a recollection, has no personal authority, no prerogative, no peculiar privileges, no special part in public life. It should not be so with the profession of advocate. It is necessary that our independence should be real and complete. It is not a privilege conceded to the pride or the profit of a certain number of citizens, it is a right claimed for all, as perhaps the most important of guarantees for security and justice in civil society. Looking to the general interest from this point of view, it is impossible to deny the right and the necessity of a complete and reciprocal liberty of discussion between the Bar and the public prosecutors. In judicial debates, the general interest of society is especially concerned with what takes place before the criminal courts, where the lives, the honour, the liberty of men are at stake. If it is a matter of importance that, under the authority of the laws, the vigilance of magistrates should preserve society from the misdeeds that threaten its repose, and that just punishment should reach the perpetrators of crimes and offences which have carried into its bosom trouble, sorrow, or desolation; it is a matter of no less importance to the general security that unjust accusations may be repelled, that a man may not be reckoned guilty merely because he is accused, that he may be powerfully protected against the errors, the passions, the ignorance, and the weaknesses of judges, magistrates, or jurymen. Who would not be astonished at hearing the public prosecutor pursue timidly, without indignation, without an ardent care for the public interest, the perpetrator of a dire crime, a cowardly treason, a villanous calumny? The proof of innocence or of guilt, the evidence of good or of evil intention, the manifestation of truth or of falsehood, ought they not equally to interest all hearts? Do they not demand the same free right of speech, the same energy of language? When the lists are open between an accuser and a defender, the arms on both sides ought to be equal." Further on in his admirable introduction,

M. Berryer makes the following splendid defence of the independence of the Bar:—"At the end of the last century, and during the sixty years of the present one, French advocates have shown, by manly and generous actions, that even in the worst times, members of the Bar will never fail to devote themselves to the defence of the life, the liberty, the honour of their fellow-citizens. Public opinion has not left the names of these brave defenders without glory, and in the future they will have many successors. Lately, it is true, we have heard an orator, unhappily but too unfaithful to these noble traditions, as well as to his own antecedents, demand that we should cease to invoke such remembrances, and insist that the present state of our political institutions should extinguish the fervent zeal and the plainness of speech which were customary in former times. It would, indeed, indicate too great a subserviency to the aspirations of the supreme power, to allow it thus to take advantage of the ruin of liberties so dearly bought, in order to bring about the subjection of the only one that remains to us. When the tribune is silent, or when its voice is heard only in imperfect echoes; when the poorly disguised censorship of the press is practised by semi-official warnings; when newspapers are edited under the fear of being arbitrarily suspended or suppressed; when the exercise of the right of petition is placed under the supervision of the Senate, as in the time of the first empire individual liberty and the liberty of the press were entrusted to senatorial commissions; when there exists no ministerial responsibility, and when, therefore, the criticism of the acts of those in power runs the risk of being easily tortured into an outrage or attack against the head of the State, from whom everything emanates and towards whom everything returns; when, impatient for the success of the prosecution, they accuse the moderation or the indulgence of the judges of *enervating the operation of the criminal law* and accomplishing *a work of moral destruction*,—the independence of the Bar is still a bulwark for each citizen against the wrath

and the assaults of authority, against the violation of law, against unjust prosecutions. We have everything to dread if it is diminished; we have no reason to despair while it is maintained and respected. There will triumph, I trust, the persevering efforts of right reason, of the spirit of justice, of public integrity. There, at least, in the words of d'Aguesseau, will resound *the last cry of expiring freedom.*"

CHAPTER VIII.

Re-establishment of the *Conférences de doctrine*—Change in the Style of speaking at the French Bar—Characteristics of its Eloquence at different periods of its history—Want of true freedom and real political life in the existing Bar—Law of 1814 constituting the order absolute master of its roll—Share of the Bar in bringing about the return of the Bourbons—Political schism at the Bar—M. Bellart's Letter to the Chancellor in favour of the re-establishment of the order on a more free and liberal basis—The Parisian Bar a city of refuge for men of all shades of political opinion.

In 1812, the restoration of the Bar was completed by the re-establishment of the *Conférences de doctrine*, at which the *bâtonnier* presides, and where the members of the council of discipline are also present. Thus, after more than twenty years of legal suspension, the order was restored; although, in reality, it had never entirely ceased from its functions except during the stormiest period of the revolution. From this time, we find a considerable change taking place in the nature of the eloquence of the French Bar. At the close of the eighteenth century it was of a highly declamatory character, as the extracts we have given from some of the most famous pleadings of that period sufficiently show. It gradually, however, became less adorned, and more nervous and logical, though it still continued to retain a more ornate and rhetorical cast than that which distinguishes forensic eloquence in this country. The various changes and modifications which the eloquence of the French Bar has undergone, from the earliest days of its history down to the present time, form a study full of interest, especially as the contests and debates of the Palais de Justice generally present a vivid and faithful reflection of the character and manners of the period. At first, forensic eloquence was stiff, pedantic

and pompous, tinctured with the prevailing Aristotelian philosophy, and encumbered with a vast variety of quotations from authors, sacred and profane. But with the improvements in language and taste, it also gradually improved, and the purity of expression and graces of style which characterized the splendid literature of the age of Louis XIV., are also apparent in the contemporary eloquence of the Bar, which was, however, destined to be carried to a still further height of excellence by Cochin, Gerbier, and other great advocates in the beginning of the eighteenth century. The language of their pleadings is remarkable for eloquence, facility, and vivacity; and passages might be selected from them which will stand a comparison with the best prose writings in the language. But in spite of this, it may safely be affirmed that forensic eloquence in France has never risen to such a height, has never played so important a part in politics, and in the literary and industrial movement of the age, as during the first half of the present century. The establishment of representative government, the publicity of debates, and the liberty of the press, all contributed to increase the importance of the Bar, whose greatest orators—such as Berryer, Dufaure, the Dupins, Odillon-Barrot, Baroche, Senart, Delangle, Chaix-d'Est-Ange, Paillet, Mathieu, Bethmont, Boinvilliers, Marie, Crémieux—have carried the glory of their order to the highest point, not only at the Bar, but also in the Tribune, and in the chief offices of the State.[1] Indeed the great advocates who illustrated the first half of the present century constitute a perfect galaxy of talent—an assemblage of men of the most original, powerful, and varied talents, whose pleadings and political speeches afford examples of almost every description of eloquence. The younger men who have succeeded them—men

[1] To find a parallel case we must go back to the latter days of the Roman Republic, when the first families in the State—the Claudii, the Cornelii, the Quintii, the Manlii, the Julii, the Antonii—counted among their ranks generations of famous advocates, and when almost all the offices in the magistracy of Rome and its colonies were filled by members of the Bar; so that, as has been not inaptly said, "At the end of the sixth century from the foundation of the city, advocates governed the world."

who joined the Bar about twenty years ago—do not, perhaps, display equal force and variety of talent, possibly because their lot has not been cast in times so well fitted to draw it forth. Many of them, indeed, possess deep and varied learning, great tact, sound judgment, fluent improvisation, and remarkable purity and precision of language. But there lacks the vigour, and vehemence, and grasp of the men of 1830. They rather seem to shrink from political questions and political life, and restrict themselves exclusively to the study of law and the labours of the courts. This, no doubt, is partly owing to the great increase of legal business consequent upon the immense development of commerce and the industrial arts. But there are also other causes which have powerfully contributed to it, particularly the absence of true freedom and real political life. This has been well put by a modern French writer in the following remarks on the junior Bar:—"What seems most wanting in the advocates of the present generation is ardour of mind, passion, enthusiasm; we do not see in them those sudden inspirations, these generous expansions of soul, these vehement apostrophes which give such power to speech; one would say that the blood of our fathers had frozen in our veins, and it may well do so since we endure so much! We have no longer their manly boldness and their energetic passion; whence arises this difference in the oratorical temperament of the present generation? The cause is to be found in the unhappiness of the times and in the prostration of public spirit. Eloquence, which can only spring up along with political life, must also die when that is extinguished." The same causes, in short, which Arrighi, in his eloquent introduction to his work on the Italian Bar, indicates as preventing the growth and development of eloquence among the advocates of Italy, seem now operating, in a lesser degree, in France. Arrighi's book was written in the middle of the reign of Louis Philippe, when the French Bar enjoyed the utmost freedom of speech, and when political life was something more than a mere name. Strange course of events! The utmost aspirations of Arrighi for the liberty of the Bar

and of the tribune in Italy have now been realized, while France has cast off a constitutional monarch only to place herself under the feet of a despot.

The French Bar remained under the severe and degrading restrictions of the law of 1810 for a number of years. But occasions occurred on which some of its members had the courage to defy the power with which that law armed the Minister of Justice, and fearlessly to defend those who had rendered themselves obnoxious to the Imperial Government. A conspicuous instance of such courage was afforded in the case of the Mayor of Antwerp, who had been denounced to the Emperor by the Commissary of Police for embezzlement of the revenue arising from the octroi. He was brought to trial at a court of assizes held at Brussels, was defended by the elder Berryer, and was acquitted by the verdict of a jury in July 1813. Napoleon, however, in defiance of every principle of justice, determined that the Mayor should undergo a new trial, and the servile Senate, before whom the affair was brought, issued a decree annulling the verdict, and sending the Mayor to be tried by an Imperial Court sitting without a jury. M. D'Argenson, the Prefect of Antwerp, when charged with carrying out the execution of this monstrous decree by a fresh arrest of the Mayor, preferred the resignation of his office to the perpetration of such injustice. But in spite of this, and of all the efforts of Berryer, who ceased not to strain every nerve in favour of the accused, he was again arrested, and ultimately died in prison overwhelmed by grief and anxiety.

In the spring of 1814, an important step was made towards establishing the independence of the modern Bar, by a decree which decided that the order were absolute masters of their roll, and that none were entitled to demand from them the reasons which might, at any time, induce them to refuse admission to it. This principle has always been justly regarded as one of the most important and essential safeguards of the dignity and honour of the Bar. Shortly after this, at the time when the Allied Sovereigns, masters of Paris and of the

fate of France, were deliberating upon the line of policy to be adopted, Bellart and Perignon, both members of the Bar, proposed to address a proclamation to the inhabitants of Paris demanding the return of the Bourbons; and, on the 31st March 1814, the Council General of the Seine decided to adopt their proposal. A Provisional Government was forthwith constituted, and on the 6th April, the Count d'Artois preceded the King and arrived in Paris. One of his first acts was to testify his gratitude to the Bar, and when the council of the order were shortly afterwards presented to Louis XVIII., the King made use of the following flattering expressions :—"The order of advocates has acquired immortal glory; in its bosom was found the defender of the best of kings." In the beginning of 1815, De Sèze, the defender of the unfortunate Louis XVI., was appointed first President of the Court of Cassation, but the imperial law of 1810, so galling to the Bar and so prejudicial to its dignity and independence, was not repealed. The elder members of the Bar for the most part enthusiastically welcomed the return of the ancient monarchy whose splendours had dazzled their youthful eyes; but many of the younger advocates, fascinated by the glory of the empire, viewed the restoration with indifference or dislike. Hence arose a division in the order which the extravagances of some men of extreme views on either side tended to widen. The return of Napoleon from Elba in 1815 again threw everything into disorder. Many of the advocates joined the National Guard, the sittings of the courts were almost deserted, and military uniforms replaced the peaceful robe of the Palace. After the restoration of order, Bellart was appointed *Procureur-Général* in the Royal Court of Paris; and he used his utmost endeavours to procure the appointment of the *élite* of the Parisian Bar to the vacant offices of the magistracy. In the autumn of 1815, Hémery, Moreau, Larrieu, and Romain de Sèze, son of the first President of the Court of Cassation, were appointed councillors in the Royal Court, and several other promising young advocates were afterwards added. The tribunal of the first instance

was also organized by the care of Bellart. Popelin, an experienced advocate, was named first president, and de Marchangy, Emmery, and some other members of the Bar were appointed to the *parquet*. Vatimesnil, afterwards Minister of Public Instruction, and De Broé were also called to the ranks of the magistracy.

After the reorganization of the tribunals, it was fondly hoped by the Bar that the Government would no longer delay restoring to them their ancient liberty; and M. Bellart addressed to the Keeper of the Seals a long and eloquent letter, advocating the re-establishment of the order on a more liberal basis. "The Royal Court," he says, "and the civil tribunals of Paris have been reorganized; something, however, seems wanting to the completion of this great work; and that is the restoration of the order of advocates. I have had the honour to belong to it so long that I feel a sort of modesty in claiming for it the re-establishment of its ancient discipline. In asking that its splendour should be restored to it, I appear to be asking something for myself, . . . The order of advocates never displayed more public and private virtues than when it possessed the power of governing itself by its own special rules. It was then reproached with somewhat of pride and self-sufficiency. Such things may be ridiculous, perhaps, but they should not be too rashly condemned, if they have at least the good effect, which the promptings even of conscience do not always produce, of directing those who are guided by them to separate themselves from the common herd, by doing nothing that may injure the delicacy of their honour or their feelings of self-respect. . . . I have therefore the honour of proposing to your eminence to restore their ancient discipline to the advocates of Paris, by destroying the fetters which restrain their independence, especially the decree of 14th December 1810. Before the Revolution, the advocates elected their chiefs, and their councils had the uncontrolled power of exercising discipline upon the members of their body, without any intervention by the public authority, except that which took place in the case of erasure from the

roll, which was sanctioned by a decree of *exequatur*, generally granted by the Parliament as a matter of course. This confidence of the Parliament, it should be mentioned, was owing to the weight and authority of the parties who had pronounced the sentence of erasure. The decree of 14th December 1810 totally overthrew a state of things which the revolution had already, as it were, annulled. . . . Such are the different wrongs inflicted upon the dignity and independence of the order of advocates, which it now appears desirable to redress, in order to restore to that order the splendour which, by giving it an exalted idea of itself, will also impose upon it the most elevated duties, and a severe delicacy of feeling and conduct, which are still more surely the results of a noble pride than of a sense of probity alone." In spite, however, of Bellart's great abilities, high position, and favour with the Government, his letter to the Keeper of the Seals was not attended with the desired results, and the Bar remained still subject to the restrictions of the decree of 1810.

It is greatly to the credit of the members of the Parisian Bar that, in spite of the keenness of political feeling, and the number of *émeutes* and revolutions in France, there has been no instance of their erasing any member from their roll on account of his political creed, however extreme or however distasteful to the majority. On the contrary, the Palais de Justice has proved a city of refuge for men of all parties and shades of opinion, and many an ex-minister or other public official has there found a welcome and a livelihood after his party were driven from power and place. It is a neutral ground, where a sort of indulgent scepticism prevails, and where all kinds of opinions may be held and defended under the shadow of a toleration seldom withdrawn. A former minister who had returned to the Bar used to say that the only two places in France where one could talk politics without giving offence were the Court of Cassation and the Salle des Pas-perdus. "To-day," says a clever French writer, "the Bar presents an unexampled spectacle, that of ministers under all our different Governments, long

time separated, adversaries, enemies perchance, returned to the same profession, united by the same duties, the same labours, the same aversions; who within the last fifteen years have learned to know each other; who would be astonished at their enmities, if they were not still more astonished at their friendships." It has indeed been alleged by some writers that Manuel, an advocate of the Court of Aix, and afterwards a Member of the Chamber of Representatives until its dissolution in July 1815, was expelled from the Parisian Bar on account of his political opinions. But the truth is that he never was admitted to it. He indeed applied for admission in 1816; and the council of the order, having made inquiries at Aix and not having received satisfactory answers, delayed the matter. In 1818, he again applied for admission, and, upon a new report of the matter, drawn up by Delacroix-Frainville, his application was indefinitely postponed. But to refuse admission to an applicant whose character is unsatisfactory, is a very different thing from expelling a member on account of political opinions. The former is a just and necessary exercise of discipline; the latter a piece of tyranny and injustice

CHAPTER IX.

Results of the political schism at the Bar—Report on the Bar made by M. Peyronnet to the King, and Law of November 1822 following thereon—Quarrel between the Court of Assizes and the Bar—Revolution of 1830—Active and important part taken in bringing it about by some leading members of the Bar—Law of August 1830 restoring to the order the full control of its Elections—Course of Study at present required from aspirants to the French Bar.

WE have already stated that the events of 1815 had formed two strongly-marked political parties at the French Bar,—the monarchical party, including the oldest and most famous advocates, and the liberals, superior in numbers, but consisting chiefly of younger and less known men. The result was a schism, ultimately leading to the law passed in 1822 for the regulation of the order, which modified the enactment of 1810, and restored, though very partially and imperfectly, some of the independence which that enactment had taken away. According to the 19th article of the law of 1810, the whole body of advocates on the roll at the end of the judicial year elected thirty candidates, out of whom the *Procureur-Général* chose the *bâtonnier* and fourteen members of the council. The command of the order, through its council, was thus almost entirely in the hands of the Government, which always took care to choose the members from the senior Bar whose sentiments were known to be favourable to monarchy; or, if they occasionally selected one or two of the younger men, took them from among the anti-liberals. This conduct was deeply resented by the liberal party—numerically much the stronger of the two which divided the Bar—and, on the approach of the elections of 1822, they took care to present among the thirty candidates chosen by the order, a

majority of names obnoxious to the Government. The result was an order by the *Procureur-Général*, made in August 1821, and confirmed in September by the Keeper of the Seals, which annulled the elections, and two councillors of the Royal Court were appointed to make an inquiry into the matter. They summoned Billecoq the *bâtonnier*, before them; but he, although a supporter of the Government, declined either to appear or give evidence in an affair which might compromise a number of his brethren, and even the solicitations of Bellart, who wrote him a long letter on the subject, were insufficient to overcome his resolution. The council of the order was therefore indefinitely adjourned, and no roll was made up in 1822. But this state of affairs arrested the attention of Government, which determined to make a new law for the regulation of the Bar; and, on the 20th November 1822, an elaborate report was presented to the King by M. Peyronnet, then Keeper of the Seals, which gives the following noble and eloquent estimate of the rights, privileges, and duties of the order of advocates, with which, unfortunately, the law that succeeded very poorly and imperfectly corresponds:—"The profession of advocate," says M. Peyronnet, "is so noble and exalted, it imposes upon those who wish to distinguish themselves in it so many labours and sacrifices, it is so useful to the State by the light which it sheds upon the discussions which precede the decrees of justice, that I should be afraid of neglecting one of my most important duties if I omitted to bespeak for it the favourable consideration of your Majesty. That profession possesses privileges which astonish feeble minds, but of which experience has long since proved the necessity. The independence of the Bar is not more precious to the order than to justice. Without the privilege which advocates possess, of freely discussing the very decisions which justice pronounces, her errors would be perpetuated, multiplied, never remedied, or rather a vain mockery of justice would usurp the place of that beneficent authority which has no other support than truth and reason. . . . Without the precious rights of granting or refusing their

assistance, advocates would soon cease to inspire confidence, and possibly to deserve it. They would exercise without honour a degraded profession. Justice, always condemned to doubt their sincerity, would never know whether they themselves believed in their statements and doctrines, and would be deprived of the security which their experience and integrity afford her. Finally, without an internal organization which would free it from the useless yoke of a direct and habitual control, that order could no longer hope to receive into its ranks the great men who make its glory; and justice, upon whom is reflected the splendour of their virtues and talents, would lose in her turn her surest supports and best guides. There would be but little wisdom in dreading the dangers which might result from these privileges. Undoubtedly, we have seen advocates, forgetful of the dignity of their office, attack the laws while professing to explain them, and calumniate justice under the pretext of displaying her mistakes; we have seen that an exaggerated sentiment of the independence of their order has accustomed them gradually to respect neither duties nor courtesies. But what do these instances, which we are obliged to draw from the lowest ranks of the Bar, prove? And should we, on account of a few abuses, abandon or pervert a necessary institution? Your Majesty, who seeks with so much care opportunities of doing honour to intellectual learning and abilities, will not share in the distrust which this institution has sometimes inspired, and will rather be of opinion that it ought to be consecrated and strengthened. At a period, already somewhat distant and very unlike our own times, the endeavour was made to constitute the order of advocates, and to submit it to a regular organization. It was the period when the various classes of society, worn out by the confusion into which the Revolution had plunged them, felt an indescribable need of subordination and discipline which rendered them generally more submissive to the duties that were imposed upon them. A long forgetfulness of the outward forms tending to preserve good order and propriety, seemed then to demand a severity more than

usually rigorous and steady, in order to subject to the new order of things the remnant of those restless spirits whose eyes the spectacle of our misfortunes had not yet opened, and for whom the most wholesome regimen was fatigue and servitude. The Government, besides, was compelled, by the illegitimacy of its origin, perpetually to extend its strength and its influence. The instinct of self-preservation obliged it to give, to a body of men united by common interests and similar labours, only privileges contrived with such artifice as to leave to itself superior activity and superior jurisdiction. Such are the causes to which we must attribute the unfortunate mixture of useful regulations and excessive precautions which make up the law of 14th December 1810. It was thus that the formation of the first roll was consigned to the heads of the courts and tribunals, and that, in the composition of the council, the will of the *Procureurs-Généraux* was substituted for that system, so proper and natural, which, under the empire of the ancient customs, resulted from seniority. It was thus that the councils of discipline were deprived of the right of electing their president; and that, finally, independently of the supreme jurisdiction, direct and unlimited, of these councils and courts of justice, a superior, direct, and unlimited jurisdiction was reserved to the minister, as if to insure him a guarantee against the weakness of the judges of the order and of the magistracy. The advocates, whose pride was wounded, and whose ancient traditions were violated by these unusual restrictions, complained of them from the very first day of the publication of the law, and have never ceased, since that day, to renew their complaints."

The law of 20th November 1822, which followed upon this report of the minister, was far from being in harmony with the favourable opinion which that report expressed of the claims of the Bar. The recent schism in its bosom, and the opposition of the majority of its members to the existing Government had produced an unfavourable effect. Still, with all its defects, the new law was a decided improvement on that of 1810. It took away from the Minister of Justice

the power of censuring, suspending, or striking from the roll any advocate without appeal. It abolished the regulation compelling advocates to give receipts for their fees, and it recognised the ancient customs of the order with regard to the rights and duties of members of the Bar. But still it did not fully restore their liberty and independence. It deprived the *Procureur-Général* of the right of choosing the *bâtonnier*, and gave it to the council of the order. But then it organized that council in such a way as to put absolute power in the hands of the seniors. The first article of the new law decreed the division of the Bar into columns—an old custom, as we have seen, originally established for the better and more convenient management and discipline of the order—but the seven columns into which the Bar was divided were now to be arranged by the former *bâtonniers*, and by the council of discipline, called together by the *Procureur-Général;* and the two oldest members of each column were for the future to compose the council along with the former *bâtonniers*. This council elected the *bâtonnier* and a secretary, so that it really enjoyed the supreme authority over the order; and, although the deaths of the chiefs of the columns might open up to the younger members whose names immediately followed in the list, a prospect of admission into the council, that prospect was rendered very remote by article 4, which provided that every three years the Court had the right, upon the requisition of the *Procureur-Général*, or on the request of the council of discipline, to renew the arrangement of the columns, so that it could thus always place at their head the names of those most agreeable to the Government. There were also other articles in this law highly distasteful to the Bar from their interference with its independence. Thus article 39 prohibited advocates from appearing before a court other than that to which they belonged, without previously obtaining the permission of the council of discipline, the first president of their court, and the Keeper of the Seals. These obnoxious provisions made the law of 1822 very unpopular with the Bar, in spite of the

many useful articles which it contained. It augmented rather than diminished the strength and bitterness of party feeling, and engendered a spirit of hostility to the Government among the younger and more numerous section of the Bar, whom it unjustly excluded from a fair share in the government of their order.

In 1829, a quarrel occurred between the Court and the Bar with regard to the case of two young advocates, who had been unjustly censured by the former. The circumstances were as follows:—In March 1829, a case before the Court of Assizes was without counsel for the defence,—one advocate having returned the papers sent him with a message that he could not undertake the case, and the other having written a note to the president, stating that he required longer time to prepare himself. The court adjourned the case to another sitting; but, at the same time, pronounced a deliverance that the documents produced by the accused were calculated to incriminate the honour of the advocates, and ordered that they should be sent to the council of discipline. The council naturally felt hurt and astonished that the court, while remitting to them to judge of the affair, should have commenced by publicly censuring two advocates not present at the discussion; and, on the 13th April, expressed "the profound feeling of pain with which it had seen the deliverance of the court," at the same time giving utterance to its reasons for disapproving of that deliverance in respectful but energetic terms. On 5th May, a decree of the court, sitting with closed doors, set aside the deliberation of the council of discipline, declaring "that it did not belong to it to censure the form in which an affair had been remitted to it by the Court of Assizes." The council, however, persisted in its remonstrances, and, on 17th July, it resolved to present itself in a body before the assembled chambers of the court, when the *bâtonnier*, while expressing the utmost respect and deference for the judges, at the same time persisted in his protestation against the decision of the Court of Assizes, and maintained that to censure two advocates beforehand, while

remitting their case to the council of discipline, was a proceeding contrary to reason and common sense. The court, however, adhered to its deliverance, the advocates appealed to the Court of Cassation, and that tribunal, on 20th April 1830, rejected their appeal.

In the following month, M. de Chantelauze, a member of the Bar of Lyons, was made Minister of Justice, and a deputation to congratulate him was sent from the council of the Parisian Bar. After the official reception, the minister took aside Gairal—an advocate with whom he was intimately acquainted—and said to him "Gairal, the monarchy is lost, at least without a miracle of Providence." This was but six weeks before the fatal decrees of 25th July, which led to the overthrow of the Bourbons. In the Revolution of 1830, the Bar took an active and leading part; indeed, as has been truly remarked, that revolution was a revolution of advocates. Dupin the elder, *bâtonnier* of the order, as well as a deputy, and Maugin and Persil, both deputies and eminent barristers, signed the protest against the decrees, and Odillon-Barrot and Maugin were influential members of the Provisional Government. Such services demanded prompt and ample recognition, which was granted by the decree of 27th August 1830, restoring to the order the full control of the elections. It proceeds upon the preamble that many and just complaints have for a long time been made against the regulations which govern the practice of the profession of advocate, and the importance of forthwith putting an end to those abuses which are most generally and severely felt. Article 1 enacts that, "from the day of the publication of the present ordinance, the councils of discipline shall be elected in a direct manner by the assembly of the order, composed of all the advocates inscribed on the roll. The election shall take place by ballot, and the majority of the members present." Article 2 provides that the council of discipline for the Bar of Paris shall consist of twenty-one members; article 3, that the *bâtonnier* shall be elected by the general assembly of the order, before the election of the council of discipline, but by a separate

ballot, and the absolute majority; article 4 provides that every advocate inscribed on the roll shall have the right to plead before all the courts of the kingdom without previous authorization; and article 5 promises the definite revision of the laws and regulations affecting the profession of advocate with the shortest possible delay—a promise which has never been performed. The only other law affecting the Bar which we need mention is that of 22d March 1852, entitled, "Decree relative to the elections of the Bar." It proceeds upon the preamble that the forms laid down by the ordinance of 22d August 1830, for the different elections of the Bar, have occasioned just complaints, and do not offer a sufficient guarantee for the sincerity of choice; and it then goes on to enact that the councils of discipline of advocates practising before the courts and tribunals shall continue to be directly elected by the general assembly of advocates inscribed on the roll, and that the election shall be by ballot, and by the majority of members present; that the *bâtonnier* shall be elected by the council of discipline, by the absolute majority of votes, and that he shall only be chosen from among the members of the council; that for the future an advocate who shall have been sentenced to one of the disciplinary penalties contained in the 18th article of the ordinance of 20th November 1822, shall be, according to circumstances, and by that very sentence, deprived of the right of belonging to the council of discipline, for a period which shall not exceed ten years; and that none may be elected members of the council of discipline in Paris except advocates whose names have been ten years on the roll.

According to existing regulations, the education required in order to become a member of the French Bar is of a very high character. The student must obtain the diploma of *Bachelier-ès-lettres* at certain public schools, and must then present himself at the *Ecole de Droit*, where he is inscribed as a pupil, and where he studies under certain professors for a period of three years, attending lectures on Roman law on the *Code Napoléon*, on the study of law generally, on criminal

legislation, on civil and criminal procedure, on administrative law, on the law of nations, and on the history of Roman and French law, together with conferences on the Pandects. He must also write theses on the Roman law, and on criminal and commercial law. He must then undergo examinations on all these different subjects, and, if he succeeds in passing them, he receives, at the close of his third year, the diploma of *Licencié en Droit*, and is entitled to be sworn before the court and called to the Bar. If, however, he wishes to obtain the higher degree of Doctor of Laws, which is necessary for those who aspire to become professors in any of the departments of legal education, he must attend a fourth year at the *Ecole de Droit*, compose a thesis, and submit to certain additional examinations. This last-mentioned degree is also a recommendation, though not an absolute necessity, for admission to judicial and magisterial functions. The diploma of Licentiate costs £44, the degree of Doctor about £23 more.

CHAPTER X.

Great number of eminent Advocates who have been Statesmen and Ministers since 1815—Celebrated Political Trials since that date—Case of Marshal Ney—Case of Fiévée—The Bar of the Nineteenth Century—Hennequin, Berryer, the brothers Dupin.

MANY celebrated cases illustrate the annals of the French Bar subsequently to the fall of the first Napoleon. To one or two of these we shall now advert, and shall then close our sketch by some brief biographical notices of a few of the leading members of the French Bar, who have distinguished themselves since the restoration as lawyers, orators, and statesmen. And even a very rapid glance at the history of that period will be sufficient to show that the majority of the ministers and statesmen of France, of the most brilliant and effective orators in her Legislature, of those who have made her history between 1815 and 1852, have belonged to the Bar. A striking proof of this is afforded by the fact that, if we merely take the *bâtonniers* or presidents of the order from 1836 to 1864, we shall find among them four ministers of the interior, four ministers of justice, two ministers of public works, one minister of foreign affairs, one of agriculture and commerce, and one vice-president of the Senate.

The first of the famous trials which we propose to notice is the melancholy one of that great and brave soldier, Marshal Ney, who was tried and condemned by the Peers of France in defiance of the express provisions of article 12 of the Capitulation of Paris, which provided that "private persons and property shall be equally respected. The inhabitants, and in general all individuals who shall be in the capital, shall continue to enjoy their rights and liberties without being disturbed

or called to account, either as to the situations which they hold, or may have held, or as to their conduct or political opinions." To this declaration, which was believed to secure a general amnesty under the plighted honour of Wellington and Blücher, Marshal Ney had trusted for his security. As he himself said on his trial, "The declaration was so protecting that I fully relied upon it. Without it, is it to be believed that I would not have preferred dying sword in hand? I was arrested contrary to the provisions of that capitulation, yet it was on the faith of it that I remained in France." It availed him little, however, before the Bourbon House of Peers, who would not even allow Article 12 to be read, nor any reference to be made to the convention of which it formed part, in the pleadings for the defence. Ney was first arraigned before a council of war, and his brother-in-law, M. Gamon, applied to M. Bellart, who had not then received the appointment of *Procureur-Général*, to undertake his defence. Bellart took a day for consideration, and then declined. But he, at the same time, said to M. Gamon,—"The Marshal alone can defend himself; in his place, I would appear before the council of war, and I would confine myself to pronouncing these words."—He then read to him the following short address which he had composed for Ney:—"Soldiers! in appearing before you, I ought to remember that I have the honour to be a soldier. Loyalty is our chief virtue; even against ourselves we ought always to practise it. I come not, then, to implore your compassion, nor to beg from you my life. I ask death at your hands; I have deserved it. My blood has already flowed more than once for the honour of my country, the remainder must be poured forth for her safety. An example of justice and of necessary severity must be given to teach the lesson that, when an individual has betrayed the destinies of his country intrusted to his care, he must perish. I come not even to justify my conduct; I come to explain it. I have incurred your blame, and my fate; but I do not wish to appear more culpable than I am. In confessing my crime, I ought not to suffer it to be exaggerated. I have been weak,

but not perfidious. When I left the King to whom I had sworn fealty, I wished to save him; I did not deceive him. I went as far as Lons-le-Saulnier with this intention. There, I received a messenger from him who was long my friend and master. In his name I was reminded of our ancient brotherhood in arms, of the many perils, the many glories we had shared; of the colours under which we both had fought, of the victories we had won. I had loved him; I owed him everything; he had raised me from the lowest ranks of society to the summit of human grandeur. My heart was seduced. I remembered only gratitude and friendship; that was my true fault. It is great, since by it I sacrificed my country. Let my country avenge herself; that is just. But when that vengeance shall be accomplished, let my ancient comrades, while detesting my last action, not judge it more atrocious than it really was, and let them shed some tears to my memory."

Ney was defended before the council of war, and afterwards before the Court of Peers, by Berryer *père*, Delacroix-Frainville, and Dupin the elder. The defence was preceded by a memorial in justification drawn up by Berryer; and as it is one of the ablest of that eminent advocate's performances, we may be excused for giving an extract from it. "If Ney," he says, "had been a conspirator, he would be totally unworthy of interest. But if, on the contrary, we shall succeed in proving that he has in no way conspired, that his promises, that his oaths to the King have been equally sincere and disinterested; that he has truly served the royal cause up to the moment when an irresistible superior force drew him away from it; if it is shown that his defection, blameable as it certainly was, had no other motive than the fear of seeing the outburst of a civil war; that it is the mistaken love of his country which alone has led him to incur the reproach of having betrayed her; if it is incontestable that his defection has not benefited the cause of Buonaparte, that the Marshal himself has derived from it no kind of advantage, that he has given proof of some virtues . . . then, at least, these

thick clouds of blind prejudice which obscure the glory of Marshal Ney will begin to dissipate; then, at least, he will begin to recover that precious public esteem, the most valuable patrimony which he can transmit to his descendants; then, even if he is reduced to the painful extremity for every man of honour, and especially for a Marshal of France, of seating himself on the bench set apart for the accused, some good wishes will follow him even there." The memorial then rapidly and forcibly recapitulates the extraordinary and unprecedented circumstances that had led to Ney's defection, and thus continues:—"A momentary error, the effect of a truly unheard of concurrence of the most remarkable incidents, an error of which it is impossible to discern the motive except in a feeling laudable in itself though ill-directed . . . such an error, is it anything else than a fatal mistake? Shall it not then be permitted to Marshal Ney to appeal to the judgment pronounced by the sovereign upon those of his subjects who have only been misled? Is it not exclusively the instigators of dissensions, the authors of *deliberate plots*, that his majesty has given up to the vengeance of the laws? By what fatal exception then should Marshal Ney be treated as a criminal?" After the reading of the memorial, Berryer pleaded the incompetence of the council of war, and two papers in support of this, drawn up by Dupin and Delacroix-Frainville, were submitted to the judges. Finally, the case was remitted to the Court of Peers, where the same advocates defended Ney, and where the principal part in the accusation was borne by Bellart, then *Procureur-Général*. The defenders wished to found upon the 12th article of the Convention of Paris of 3d July 1815, which we have already quoted, and which they held to be sufficient to exempt Marshal Ney from all prosecution. A lively discussion took place in the court as to whether this should be permitted, and, on the question being put to the vote, it was carried that Article 12 should not even be allowed to be read. At a subsequent sitting, Berryer again entered upon the discussion of Article 12, when he was opposed by Bellart, and finally forbidden by the President

"to refer to a treaty in which the King had no participation." Possibly not; yet to that treaty he owed his crown. Ney, therefore, in opposition to common sense and justice, was tricked out of his life by a legal quirk, which prevented him from availing himself of his best and surest defence. His counsel, of course, had no resource but to submit to the decision of the court; but Dupin started the objection that Ney was not a French subject, having been born at Sarrelouis, not then forming part of France. The Marshal, however, at once interrupted him, by starting up and exclaiming with much emotion, "I am a Frenchman, and I shall die a Frenchman! Hitherto my defence has appeared to be free; I perceive that it is now wished to render it otherwise. I thank my generous defenders for what they have done, and for what they are ready to do; but I entreat them rather to cease to defend me entirely than to defend me imperfectly. I prefer to be without defence at all, rather than to have only the mockery of defence. I am accused contrary to the faith of treaties, and they will not permit me to refer to them. Like Moreau, I appeal to Europe and to posterity." Ney continued to adhere to his refusal to permit his counsel to plead, unless they were allowed full liberty of defence; and Bellart, for the Crown, having renounced the right of reply, the harsh sentence, which all the world knows, was pronounced and carried out against the "bravest of the brave." We cannot better close our sketch of this famous trial than by quoting the just and eloquent remarks of M. Gaudry with regard to the conduct of the prosecution:—"If," he writes, "the 12th article of the Treaty of Paris of 3d July 1815 could save the Marshal, it was necessary to allow its discussion; if that plea ought to have been rejected, it was still necessary to permit it to be tendered; the court was composed of men too intelligent to be imposed on by a bad argument. Undoubtedly, it is wrong to permit the maintaining of principles injurious to public morality; but what danger could have been incurred by inquiring whether the Treaty of 1815 covered Marshal Ney with its ægis? As to the argument

drawn from the fact that the interlocutory plea ought to have been presented along with those of the 23d December, it was miserable. M. Lanjuinais answered with justice that it was not an interlocutory but a peremptory plea. Even if, in criminal justice, exceptions to the procedure cannot be pleaded when the merits are gone into, it would be absurd to apply this rule to a discussion the result of which might be an acquittal. It is still more deplorable that that plea should have been examined and discussed by the court on the motion of one of its members, in the absence of the accused and his defenders, even before it had been brought forward. It is a fresh and sad example of the danger of hindrances to the freedom of defence, against which the Bar can never too energetically protest."

Another famous case of a different kind, belonging to this period, was that in which a writer of the name of Fiévée was tried for having attacked the Constitution of the Chamber of Peers and the Chamber of Deputies, in a pamphlet entitled *Histoire de la Session de* 1815. He was defended by Antoine-Louis-Marie Hennequin, one of the most brilliant advocates of the time, who died in 1840, at the early age of fifty-three. The following extract from his pleading on this occasion will give some idea of the character of his oratory:—"Has M. Fiévée availed himself of the legitimate rights of the press, or has he been guilty of those abuses which the law will repress? To illustrate this point—the sole point in the case, we must consider the law of the press in all its extent; we shall thus arrive at its limits, beyond which alone abuse commences. It is not against poets, physicians, mathematicians, that the constitutional law is directed, when it recognises the right of every citizen to print his opinions. Let the peaceful children of the muses publish their ingenious fictions, let philosophers reveal the secrets which they have wrested from nature, they can do so now as always; they have never disturbed themselves with politics in the midst of their useful meditations, and they are not the persons that the charter is specially intended to protect. The law only concerns itself with poli-

tical writers, and I speak not of those who, admiring the successful progress of the ministry and the superior talents of all the authorities, declare themselves their apologists and defenders; they have no need of the protection of the law, they find sufficient in the nature of their works. Its protection is offered only to the bold publicist who, finding in our institutions the immediate cause of the public misfortunes, dares to make his manly voice ring in the ears of authority. It is to him that the Prince has said: 'Write, I shall receive your counsels, and I shall be the supreme judge of them; but write boldly. I wish to hear the truth, I demand it from those who surround me; I wish that every French heart should unite in promoting the public welfare.' Such, gentlemen, is the liberty of the press; it is the right of warning, censuring, criticising; and these words, *liberty of the press, public right of censure*, are synonymous in the minds of all thinking men."

Hennequin belongs to that chosen band of brilliant advocates who, starting from 1814, were for twenty-five years engaged in all the great judicial trials of the day, as well as deeply concerned in political affairs, and who have left an indelible impress on the Bar and on society. He was born at Monceaux, in 1786, and pursued his legal studies at a time when the chaos of revolutionary laws and of previous laws and customs had not yet been reduced to order by the publication of the *Code Civile;* when there was no clear path and no trustworthy guide. Yet it is somewhat remarkable that this period, when the science of jurisprudence may almost be said to have been in abeyance, was the period that formed such men as Dupin the elder, Persil, Tripier, Teste, Maugin, Romiguières, and other eminent lawyers, who constitute the first and greatest generation of the advocates of the nineteenth century. While engaged in prosecuting his studies, Hennequin was drawn for the conscription and attached to an artillery regiment stationed at Wesel, on the banks of the Rhine, where his superior education induced the general who commanded in the place to choose him for his secretary. An

interesting anecdote belongs to this early period of his career. Some peasants of Osnabruck were brought before a French council of war, for having offered violent resistance to certain soldiers, who had forced their way into their houses during the night in order to levy contributions. In the affray that followed several soldiers had been killed; and, though they had evidently been in the wrong, the council seemed inclined to inflict a severe punishment on the peasants in order to conciliate the army. In the midst of the discussion, a young artilleryman came forward, undertook the defence of the accused, and spoke with such tact and eloquence that he succeeded in moving the judges, and procuring the acquittal of the peasants. This was Hennequin's *début* as a pleader. On the conclusion of the peace of Tilsit, his battalion was discharged; and, although offered the grade of sous-lieutenant, he hastened to return to Paris in order to resume his legal studies. He joined the Bar in 1808, but for some time his merits were not properly recognised. At last, in 1813, he met with an opportunity of displaying his remarkable talents, and from that time rose rapidly, until he reached the front ranks of his profession. He welcomed the restoration as a guarantee for the repose and prosperity of France, and throughout life continued a strong Legitimist. In 1820, he defended M. Bérard, formerly an officer under the empire, but at the time of the trial a major in the army of the Côtes-du-Nord. M Bérard was placed in a very peculiar and trying position. He was arraigned, along with several others, for a conspiracy against the Government, and was accused by the *Procureur-Général* of being one of the authors and concealers of the plot, while his associates denounced him as a spy and an informer. Both his honour and life were in danger, when Hennequin undertook his defence. By an attentive examination of the documents connected with the conspiracy, he became convinced that his client was the victim of the most unfounded accusations; in his speech before the Court of Peers he destroyed one by one all the charges brought against him, and, in his reply to the prosecutor, he

exhibited even more vigour and eloquence than in his pleading. He succeeded in saving both the character and life of his client. Another memorable case in which Hennequin distinguished himself, was that of M. Peyronnet, formerly belonging to the Bar of Bordeaux, Keeper of the Seals under the Ministry of M. de Villèle, and Minister of the Interior after the retirement of M. de Labourdonnaie. He was believed to be the author or the prompter of the laws concerning the press, sacrilege, and primogeniture, and was exceedingly unpopular on account of his determined opposition to reform, and his strenuous support of arbitrary and unconstitutional measures. He was brought to trial after the Revolution of 1830, along with the other Ministers of Charles X., and condemned to a term of imprisonment. The case of disputed succession which followed the death of the Prince of Condé—who was found hanged in his château of Saint-Leu on the morning of the 27th August 1830, and with whom perished the great house of which he was the last representative—was another of the famous cases in which M. Hennequin was engaged; and two years later he undertook the defence of the Duchesse de Berri, who had been arrested while vainly endeavouring to rekindle the smouldering embers of civil war in La Vendée. Another celebrated and interesting case in which he was employed was that in which the heart of Grétry—the composer of "The Huron," "Richard Cœur de Lion," and several other popular operas—was the subject in dispute. Shortly before his death, Grétry had expressed the wish that his heart should be sent to Liège, his native city, in testimony of the strong affection he bore it; and his heir and nephew by marriage wrote to the magistrates of Liège that he was willing to comply with the wish of his uncle. Some delay, however, took place owing to political events; and the heart of the great composer was in the meantime consigned to a small monument in Rousseau's hermitage at Montmorency, which Grétry had acquired in 1813. After the lapse of a number of years, the magistrates of Liège came forward to claim the precious deposit, but they

found that the nephew had now changed his mind, and was resolved to retain the heart of his famous uncle. They were therefore obliged to have recourse to law, and intrusted their case to Hennequin, who made an eloquent and ingenious speech in their favour, commencing with a beautiful biography of Grétry. The result was a judgment in favour of the magistrates of Liège. In 1834, Hennequin was elected a deputy, and especially distinguished himself by his speeches on legal questions, which were marked by great clearness of style, and thorough knowledge of the subject. Several of his pleadings have been published, and also an able treatise entitled *Du Divorce*, in which he makes a powerful defence of the indissolubility of marriage; but his greatest legal work is the *Traité de Législation et de Jurisprudence*, in 2 vols. 8vo, the result of thirty years' study and practice.

About this time Antoine-Pierre Berryer, so long the most eminent orator belonging to the French Bar, and one of the chief glories of the tribune, began to distinguish himself by the ardour and force of his eloquence, and by that patriotism, loyalty, and integrity of character, both in his public and private relations, which have since rendered him not only one of the most admired and trusted, but also one of the most beloved and popular advocates in France. The dignity of his nature, and his inviolable fidelity to his opinions, in an age marked by change and apostasy among public men, have gained for him universal respect and renown. For thirty years he was the steadfast unfaltering champion of the fallen cause of the Legitimists, and supported it with such good faith, eloquence, and consistency, that he won the admiration and esteem even of his strongest political opponents. Thus M. Guizot, in writing of the debate on the Regency Bill of 1842, pays the following graceful tribute to the great advocate, whose political views differed so entirely from his own: —"M. Berryer," he says, "was found equal in this circumstance, as in so many others, to his own situation and that of his party. It is not only by the elevation and flexibility of his mind, by the attraction and charm of his eloquence, that

he has so long surmounted the formidable difficulties of an ambiguous and ultra-legal part in a system of legality, publicity, and liberty. He draws from other sources also his popular influence. Although he has lived a party man, M. Berryer feels as a patriot; he is no stranger to any of the instincts, emotions, and aspirations of his country; not only does he comprehend, but partakes the national joys and sorrows. He has sustained the rights and traditions of past times, and, above all other men, he is a man of the present time, attached to the rights which modern generations have conquered; he has opposed the freest Government France ever possessed; he loves and sincerely wishes for freedom. Naturally liberal, prompt, accessible, and sympathetic, he can harmonize in his mind very opposite sentiments, and preserve throughout all political vicissitudes, unity in his life and fidelity to his cause, without inspiring in the adversaries he most vehemently opposes, the anger and hatred he feels not towards them."

No name belonging to the French Bar is so well known throughout Europe as that of M. Berryer; none so associated with the possession of fervid, manly, fearless eloquence. His thrilling and sonorous voice, his imposing gestures, his athletic frame, his lion-like head, his eagle glance, have all been celebrated by numerous admirers and biographers; and there is but one opinion, one voice in France, with regard to the rare beauty and consistency of his character as a public man. Endowed with a soul thirsting for glory, with a fervid admiration for great actions, alive even to enthusiasm to great ideas and noble sentiments, tender, energetic, chivalrous, of the strictest integrity, of open-handed bounty, of unaffected, sincere piety; without littleness, without envy, without hatred, there has never been a more upright conscience, a clearer intellect, a firmer soul, a more disinterested character. He has always been animated by the most ardent patriotism, and has never deserted the interests of his country. He it was who—standing in the breach after the fall of the dynasty which he had loved and supported—was the first to declare,

"that, above and beyond opinions, there was a native country to be served;" and he has always remained, in the midst of the piled-up ruins of successive revolutions, freely exercising his rights, and lending the aid of his eloquence to all the distinguished unfortunates who have by turns come to implore it, in the name of that liberty which he has defended under every form of government.

Berryer received his early education at the College of Juilly, which had been re-opened by some Fathers of the Oratory at the commencement of the Consulate. He was at first so idle a student that his masters almost gave up in despair the task of attempting to teach him. But the Superior of the College—who seems to have been a man of unusual good sense and penetration—saw that there was something remarkable in the boy, and succeeded in rousing his dormant faculties in the following way:—One morning he called him into his apartment, and said to him,—"My child, work wearies you, and you imagine that happiness consists in doing nothing. Well, come into my study; you shall watch me working—that won't fatigue you—and you shall do nothing; but, mark me well, literally nothing." Berryer was delighted, and lost no time in establishing himself in the study, when the Superior proceeded with his work, taking no more notice of him than if he had been part of the furniture of the chamber. He found the first hour pass very pleasantly, for he had neither his rudiments to learn nor his dictionary to consult. But at the end of an hour and a half he began to weary of doing nothing, and stretched out his hand for a book. But the Superior interrupted him. "My child," he said, "you forget our agreement, you must do nothing; to read is to do something. Enjoy the permission I have given you; do nothing." By and by the monotony of this enforced idleness became intolerable, and the young Berryer made some remark, to which he received no reply; and the Superior proceeded to write calmly on in silence, till he had reached the bottom of the page on which he was engaged, and then said: "My child, every one to his taste. You prefer doing nothing; I

prefer working. I do not interfere with your repose, do not disturb my work." At the end of three hours the Superior rose, and went out to read his breviary under the shade of the trees in the garden at Juilly, to the great delight of Berryer, who was heartily tired of doing nothing. When they reached the garden, he was about to mingle with his companions, who were amusing themselves, when the Superior caught him by the arm: "My child," he said, "you forget our agreement; to play is to do something. Remain beside me; we shall walk up and down this alley, only you may take a seat when you feel fatigued." This lesson was never forgotten; and Berryer became as remarkable for diligence as he had formerly been for idleness. He left Juilly with a brilliant reputation for scholarship and ability.

He afterwards studied in the law school, under the direction of an old family friend, M. Bonnemant, a distinguished lawyer, who had been a member of the Constituent Assembly; and subsequently entered the office of M. Normand, an attorney, in order to learn the forms of procedure. In 1811, when only twenty-one years of age, he married Mademoiselle Gautier de Bar, who was only sixteen. The reputation of his father—whom we have already several times mentioned as a distinguished and popular advocate—gave him an admirable introduction to forensic life, and some celebrated causes, in which his fine oratorical talent conspicuously displayed itself, gained for him a brilliant reputation at a very early age. When only twenty-six years old, his speech in defence of General Debelle was received with universal applause. A month later he also spoke for General Cambronne, who had fought at Waterloo after having sworn allegiance to Louis XVIII. On this occasion the impetuosity of youth and the ardour of defence seem to have led him to use somewhat strong expressions, on account of which the *Procureur-Général*, Bellart, complained to the council of the order, who, while acknowledging the feelings of honour and loyalty which had actuated Berryer, censured him "for want of caution in his choice of expressions."

A strong friendship subsisted between Berryer and M. Michaud, manager of the journal called *La Quotidienne*, and one of the cases in which his eloquence shone most conspicuously and successfully was that in which he defended political liberty, attacked in his person. Two years afterwards—in 1826—he likewise defended the cause of religious liberty, assailed in the person of his friend, the famous Abbé de la Mennais. In 1830, having only attained the required age, Berryer was elected a deputy. His first speech was made against the famous address known as the address of the 221, in which the majority declared that there had ceased to be accord between the Government and the Chamber; and Royer-Collard, who heard it, and who was probably the most fastidious and accomplished judge of oratory in France, was so strongly impressed by it that he remarked: "It is more than a speech, it is an event; a new power has risen;" and at a subsequent period he said to one of his nephews: "I have heard Mirabeau in his glory, I have heard M. de Serre, and M. Lainé. None of them equalled M. Berryer in the chief qualities which combine to form an orator." A brilliant and successful political career seemed opening before Berryer in 1830, when it was arrested by the revolution which placed Louis Philippe on the throne of France. To that revolution he was strongly opposed, as the result of the triumph of democratic principles, and of a false and dangerous philosophy tending to make the people revolt both against society and against God. He has since been one of the acknowledged chiefs of the opposition. But he speedily found that such a position was not free from danger, as it exposed him to the suspicion and vigilance of the new Government; and although one of his first acts was to use all his influence to avert a premature and useless rebellion in La Vendée, he was treated as if he had endeavoured to excite and foment it. Some rash advisers of the Duchess of Berry had urged her to go personally to La Vendée and stimulate the friends of the cause of legitimacy to rise against the Government. To this scheme Berryer was strongly

opposed, and left Paris for La Vendée in order to see the Duchess, and persuade her to abandon her ill-considered design, which was disapproved of by the large and influential section of the Legitimist party, who were content to wait, and trust to legal and parliamentary action for the realization of their hopes, and who disapproved of having recourse to violent measures. In May 1832, he arrived in La Vendée, where the Duchess was residing, most carefully watched over by the Vendean Royalists, and had an interview with her at the small farm-house of Mesliers, the result of which was that he succeeded in inducing her to quit the soil of France. The Baron de Charette—a witness of that long and agitating interview—has left it on record that Berryer, on leaving the house, said to him: "In the head of that heroic princess there is stuff to make twenty kings."

But though Berryer had thus prevented a dangerous insurrection, he was treated as if he had excited it, and was arrested by the Government at Nantes on his way back to Paris, and in the month of October was brought to trial before the Court of Assizes at Blois. When he went to take his seat on the bench set apart for the accused, the jury, the Bar, and the audience all rose from their seats, and MM. Fontaine, Fayol, and Delmas, of the Parisian Bar, and M. Maigreau, *bâtonnier* of the Bar of Blois, took their places beside him. Then M. Bergevin, President of the Court, addressing these advocates, desired them to retire, as the bench for the accused was not a place for advocates in their official robes; upon which one of them immediately replied: "The bench for the accused is so honoured to-day that we have thought to do ourselves honour by taking our places on it." The prosecution against Berryer signally failed. He frankly stated everything connected with his own journey into La Vendée, but he firmly declined to give any particulars of his interview with the Duchess of Berry. Finally, the Advocate-General gave up the case, and Berryer was acquitted amidst universal applause.

In 1836, the French Legitimists subscribed a large sum,

bought with it the estate of Angerville, and presented it to Berryer as a testimony of their respect and admiration. In 1842, the first Electoral College of Marseilles chose him for their representative in the Legislature, and the political connexion then formed was only terminated by the death of the great orator. Between 1830 and 1848, Berryer spoke frequently in the Chamber, and, during these eighteen years, there was scarcely a question of interest brought forward in which did not take a leading part; and many of his speeches—such as those against the address in 1840, and against the indemnity claimed by America—formed events in the history of the times. He was employed as an advocate in many important political causes under the reign of Louis Philippe, among others in that of the present Emperor of France for his attempt at Boulogne. His speech on that occasion is a masterpiece of skill and audacity. The following paragraph from it is ingenious and striking :—"If you would be judges, at least judge humanely of human affairs, and observe under what circumstances the events of Boulogne have burst forth. The existing Ministry was formed at a moment when the gravest political questions were under discussion; that Ministry blamed the timidity of its predecessors. What has it done? It has evoked the memory of him who had borne the mighty sword of France from the extremities of Portugal to the shores of the Baltic; it has opened the grave of the hero; it has taken his invincible arms, it has laid them upon his tomb! Such is what the Ministry has done. . . . Yet you are about to pass judgment on the Prince without taking any account of the feelings which such appeals have awakened in his heart. Be men, and judge like men! What! after having heard these words, these incitements, that appeal to the great name which he bears, to the glory which he regards as his heritage, you would have it that his heart should not throb with emotion, and that the young and ardent man should not exclaim : It is my part to carry that great name to the frontiers, to avenge France, and to impress the terror of former defeats upon neighbouring nations! That name belongs to me!

These arms have been bequeathed to me by the warrior; no other hand than mine shall lay them upon his tomb! I shall go forth; I shall appear in mourning; and I shall say to France: Will you listen to my voice?"

In 1852, Berryer was elected *bâtonnier* of the Parisian Bar, and two years afterwards he was chosen a member of the French Academy. In 1858, he defended Count Montalembert, who was prosecuted by the Government for certain alleged libellous expressions contained in an article in the *Correspondant* newspaper. On the anniversary of his fiftieth year at the Bar, he was invited to a splendid banquet by his brother advocates, at which men of all shades of opinion attended to do him honour.

M. Berryer paid a visit to Lord Brougham in November 1864, and on that occasion a sumptuous entertainment was given to him by the members of the English Bar in the splendid old hall of the Middle Temple, so rich in historical and legal traditions. Four hundred sat down to dinner. M. Desmarets, *bâtonnier* of the Parisian Bar, was present as a guest; and Lord Brougham, Lord Kingsdown, Lord Chief-Justice Cockburn, Mr. Gladstone (then Chancellor of the Exchequer), and the *élite* of the Bench and Bar were among the company. Sir Roundell Palmer, then Attorney-General, occupied the chair, and proposed the health of M. Berryer in an eloquent speech, the following extract from which gives a true and vivid picture of the character and career of the great French advocate:—"In no country in the world has there been a Bar which has deserved greater honour than the Bar of France, and I shall carry your assent with me in saying that at no period of the brilliant history of that great nation, distinguished as it has been for great names, has there been at the head of that Bar a more honest, more virtuous, more eloquent, and more able man than M. Berryer. At a time when most of those I see around me were beginning their legal studies, this great man commenced a great public career, which, to this day, he continues to fulfil. By the side of his father, —scarcely less distinguished than himself,—he acted as the

advocate of Marshal Ney. In the ascendency of those principles of which he has ever been the faithful advocate, at a time when there was a disposition to make an exorbitant and excessive use of the success of those principles, he stood forward, not only on that unfortunate occasion, but also in defence of other distinguished men involved in a like misfortune; and I believe it is known to all of you that M. Berryer, then beginning his great career, even raised his voice, when his political principles were triumphant, in favour of moderation and justice to those whose fortunes were in decline. We have nothing to do with the political vicissitudes of his great country, except to admire the consistency and nobility of the man who bore himself so well under all of them. When his political principles were no longer in the ascendency, he did not retire calmly from the service of his country. His voice was still raised freely, and yet without the possibility of an imputation that he favoured disorder. When called upon at the Bar, he was always found the dauntless and fearless advocate of every unfortunate man who needed his services. It is almost a volume of history to tell how this distinguished man was the advocate of Lamennais, Chateaubriand, the present Emperor of the French, and many others whom it would be tedious to mention. Whatever their opinions were, when they needed a free word to be spoken for themselves, they went to M. Berryer. When the wheel turned round, we find him still not refusing his services to his country in any way,—still lifting up his voice as the advocate of freedom of speech, as in the great trial of Montalembert; and we find him still preserving, not only the dignity of his position, but the power and influence and brilliancy of his early days."

The last memorable appearance of M. Berryer in the Legislative body was in February 1868, when he spoke in defence of an amendment which he had proposed to a new law on the press. His amendment was designed to secure the independence of the judges. He died at Angerville, at four o'clock on the morning of the 29th November

1868.[1] On his deathbed he wrote the following letter to the Comte de Chambord, after having received the last sacraments of the church :—

"O MONSEIGNEUR,—O mon roi, on me dit que je touche à ma dernière heure. Je meurs avec la douleur de n'avoir pas vu le triomphe de vos droits héréditaires, consacrant l'établissement et le développement de libertés dont notre patrie a besoin.

"Je porte ces vœux au ciel pour votre majesté, pour sa majesté la reine, pour notre chère France. Pourqu'ils soient moins indignes d'être exaucés par Dieu je quitte la vie, armé de tous les secours de notre sainte religion.

"Adieu, Sire ; que Dieu vous protège et sauve la France.

"Votre dévoué et fidèle sujet,

"BERRYER."

Berryer lies interred in the family vault in the church at Angerville. Funeral orations were delivered over his grave

[1] Shortly before his death, Berryer charged his old and intimate friend Marie with his farewell to the Parisian Bar, and the following beautiful letter from M. Marie to the *bâtonnier*, discharging the sad duty thus intrusted to him, cannot be read without interest :—

"MON CHER BATONNIER,—Je viens remplir auprès de vous et auprès du barreau une mission douloureuse.

"Berryer est mort. Je n'ai pas le courage, en ce moment, de vous parler de ce deuil immense qui aura son retentissement partout ; non ! Je veux vous redire quelques paroles que notre illustre ami a bien voulu me confier, et qui, dans sa pensée ont été son testament de cœur, que nous accepterons avec respect comme le témoignage suprême de son affection et de son dévouement profond pour notre ordre.

"Je vivais bien près de lui et depuis longtemps, vous le savez, et Dieu sait combien de fois j'ai eu à bénir cet heureux voisinage ! Une heure avant de quitter Paris, il m'a fait appeler. Je le trouvai dans son lit, absorbé, non abattu par la maladie. Son âme énergique a dominé, jusqu'au dernier moment, les souffrances et les affaiblissements du corps.

"Aussitôt qu'il me vit, il se souleva, me tendit ses deux mains, et d'une voix émue, mais ferme pourtant : 'Ah ! vous voilà, mon cher Marie,' me dit-il, 'merci ; je vous ai fait venir ; j'ai voulu vous voir une dernière fois avant de mourir ; vous avez été pour moi un bon voisin, un bon ami, un bon confrère ; j'en suis reconnaissant ; embrassez-moi, mon cher ami, embrassez-moi.'

"Je me penchai vers lui, je l'embrassai tendrement, avec effusion. Il avait été si excellent pour moi !

"Après un moment de silence et de recueillement : 'Mon cher ami,' reprit-il d'une voix plus ferme encore, 'soyez, je vous en prie, mon organe

by M. Grévy and M. Marie of the French Bar; and by the Duke de Noailles, M. de Falloux, and M. de la Ferté, deputed by the Comte de Chambord. The English Bar was represented by Mr. Huddlestone, Q.C., Mr. Anderson, Q.C., and Mr. H. T. Cole, Q.C.

It is reported that it was the intention of M. Berryer to compile memoirs of his own life with a view to publication; and that, about a year before his death, the work had been begun by M. Paul Andral, under his direction, and a volume completed. If so, we can scarcely doubt that it will soon be given to the public. The *Souvenirs* of the elder Berryer, published in two volumes in 1839, are full of interesting information relating to the French Bar and to public events from 1774 to 1838, and the memoirs of the son can scarcely fail to possess at least equal interest.

In the small town of Varzy, in the ancient province of the Nivernais, there still stands an old mansion, the front of which bears the inscription, "The house where the three Dupins were born." The three brothers, whose names are

auprès de notre barreau, auprès de nos confrères. Je les ai bien aimés, ils m'ont aussi bien aimé: c'est une grande joie pour moi que ce souvenir; embrassez-les pour moi, mon ami. Je leur ai été fidèle, et ce sera mon dernier honneur de mourir le doyen de notre ordre. Ah! mon ami, ce grand barreau, qu'il reste toujours, comme il l'a été, ferme dans sa foi, dans son amour pour le droit; car là est sa puissance, sa grandeur, sa force. . . . A tous mes derniers adieux. . . . Embrassons-nous encore, mon ami, pour eux, pour vous! Adieu! adieu!'

"Je serrai ses mains dans les miennes: 'Oh! adieu, non, non, nous nous reverrons!'

"Ah! oui,' reprit-il, 'la campagne. . . peut-être! Adieu, mon ami, adieu!'

"Je l'embrassai encore et je le quittai. Ces épanchements si vifs, si plein d'émotion, le fatiguaient.

"Un peu plus tard, je me trouvais près de la voiture qui allait l'emporter loin de nous, hélas! Il m'aperçut, il me tendit la main: 'Adieu! mon cher Marie, n'oubliez pas ce que je vous ai dit.'

"L'oublier! Je ne pouvais pas l'oublier. Je vous redis fidèlement les paroles que j'ai entendues, que mon cœur a religieusement gardées, et que notre barreau reconnaissant conservera comme la dernière pensée, comme le dernier élan de l'âme d'un chef qui l'a tant illustré et qu'il avait entouré, pendant sa vie, de tout son amour et de tous ses respects.

"Veuillez agréer, mon cher bâtonnier, l'expression de mes sentiments affectueux.

"*Paris*, 29 *Novembre* 1868. "MARIE."

thus commemorated, have all done good service to their country during the present century, and have justly earned a title to fame. Charles Dupin, the second brother, is one of the most eminent engineers in France. He is a senator and a peer, and in 1851 officiated as President of the French Jury at the Great Exhibition in London. The eldest and most distinguished of the brothers, André-Marie-Jean-Jacques Dupin achieved, by dint of industry, tact, moderation, and ability, by a thorough understanding of his objects and of his powers for attaining them, and by a constant and undeviating remembrance of himself, a high place as an advocate, as a magistrate, and as a statesman; whilst the youngest brother, Philippe Dupin, though somewhat overshadowed by the reputation of his eldest brother on his first coming to the Bar, soon succeeded in making a place for himself, and gradually acquired the largest business in Paris, being often compelled to study the briefs with which he was overwhelmed in the short interval between leaving his study and entering the courts, and yet always appearing thoroughly master of his case. These three talented brothers belonged to an ancient and honourable family. Their father was M. Charles Dupin, councillor to the king, advocate in Parliament, and proprietor of the estate of Cœurs, a short distance from Varzy. The eldest of the Dupins was born in 1783. At the close of the eighteenth century he accompanied his father, who had been summoned to Paris to form one of the Council of Ancients. There, he devoted himself to the study of law, in preparation for the Bar, to which he had long looked forward as the field best fitted to display his abilities and to reward his labours. He was no friend to the Empire. Its splendour did not dazzle him, its despotism depressed his spirit, and his attachment to law and order, and his clear dispassionate view of things, led him to wish to see France something better than the mere camp into which it was converted during the ten years' combat that was termed the Empire. After the overthrow of Napoleon, he was engaged in many of the celebrated causes that at-

tracted public attention under the restoration, beginning by being one of the counsel for Marshal Ney in 1815, and ending by the defence of the *Journal des Débats* in 1830. During these fifteen busy years, he succeeded in winning one of the greatest names at the French Bar. He was fond of political causes, as especially suited to his talents, and as leading to popularity and success. But he would not accept all that were offered to him—selecting his causes, and preparing himself for them by the most assiduous and indefatigable labour. In 1820, he was employed in an important cause which excited a great deal of public curiosity and attention. In 1783, the Prince of Conti had sold to Louis-Stanislas-Xavier (afterwards Louis XVIII.) the estate of l'Isle Adam. At the time of the Revolution, the Prince, creditor for part of the price, had constituted the Chevalier Desgraviers his universal legatee. The latter, in 1819, made a demand of nearly £70,000 against Louis XVIII.; but, instead of settling with him, as would have been both just and prudent, the King disputed his claim, founding upon the legal principle, according to which, on coming to the throne, he became dispossessed of all his property, and was, at the same time, freed from his debts. The case was gained by the Crown before the Tribunal of First Instance, but was appealed to the Royal Court of Paris, before which M. Dupin delivered a magnificent pleading for Desgraviers, concluding in the following terms:—"I adjure you to take care that, among so many subjects of praise merited by our King, history, inflexible history, mix not some subject of censure. She will doubtless say of Louis XVIII. that he has recovered the throne of his fathers, that he has given a constitutional government to the French people, that he has founded institutions worthy of himself and of his age, that he has encouraged literature, arts, sciences, that he has always been ready to succour the unfortunate, that never prince was more magnificent or more liberal. . . . Do not let her add, but . . . he has not paid his debts."

M. Dupin gained his case; but an appeal was taken, and the matter was remitted to the Court of Orleans, which, in

spite of an eloquent pleading by M. Dupin the younger, decided in favour of the Crown.

In 1825, M. Dupin was counsel for *Le Constitutionnel* and *Le Courier Français*—then the two chief organs of liberal opinions—which were accused of assailing religion, on account of their having defended the liberties of the Gallican Church, and having attacked the ultramontanism which was approved of in high places. At this time, questions concerning the press were no longer decided by a jury, but by the judges; and two chambers of the court were specially appointed to consider and determine them. The discussions commenced in November 1825, at the time when almost the whole people of Paris were thronging to the funeral ceremony of General Foy, the gallant soldier who had served under Dumouriez and Moreau, and in Spain and Italy under Napoleon, who had fought for the Empire at Waterloo, where he received his fifteenth wound, and who, since 1819, had been a distinguished and popular member of the Chamber of Deputies. The trial was listened to with intense interest by a numerous and excited audience. The two journals were charged with intending to destroy the Christian religion by substituting for it Protestantism, or rather the negation of religion. The counsel for the Crown thus terminated his address to the judges:—"Appointed by the law to judge the perfidious bias which they have sought to give to public opinion, you will perceive the object and the peril! You will defend the religion of the State; you will repel vain excuses, and you will thus show that the French magistracy does not repudiate the venerable heritage of its predecessors!" In the defence, M. Dupin surpassed all his previous efforts. He was clear, moderate, sensible, full of spirit and fire, often rising to eloquence. He was fortunate in his case and full of it—delighted to have an opportunity of speaking about Jesuits and Jansenists, and the ancient Parliaments. And here it is proper to mention that M. Dupin's enlightened and liberal views with regard to the press were not merely put on when required like his advocate's gown, but were the expression of

his fixed and serious conviction. "I persist in believing," he on one occasion said in the Chamber of Deputies, "that if the liberty of the press comprises for free governments and nations the severest of their trials, it is at the same time, in modern society, a trial that cannot be shunned, and there is only one way of living honourably with such a companion: namely, to acknowledge it frankly, and to treat it with complaisance." But to return to the case before us. "Judges," exclaimed M. Dupin in closing his pleading, "this case is essentially Gallican, but it excites the attention of Europe; what do I say? The whole world, an entirely new world, has its eyes turned upon us, ready to form its judgment on our conduct, desirous of knowing whether the era of toleration shall begin, or persecution shall recommence its reign. Judges, you can dissipate these clouds, maintain the peace of the state, and render a great service to religion, by preserving her from the consequences of an ambition which she disowns. In a recently published book, on which the name of *Manifesto* has been bestowed from its official character, your influence is attacked and insulted, and the noble power which you exercise is claimed for others; have no fear of these menaces; power is not lost except when it is abused; and when you shall have protected the public liberties by a judgment which will assimilate your history to that of your predecessors, the opinion of a grateful public will defend you in its turn, and you will be invincible. Decide, then, according to your conscience, taking counsel only of your learning, your historical traditions, your ideas of the future of France, of your love for your King and native country, and lastly, of the sentiment of your own glory and dignity. You will then be able to say, or, at least we shall say it of you, 'If the public liberties have not perished in France; if the freedom of the press has been protected against *clandestine purchase* and *processes of construction;* if ultramontanism has been restrained; if we have been able to continue to oppose to its enterprises the ancient barrier of the liberties of the Gallican Church; if the royal power finds itself thus secured for the future from the attacks

and intrigues which formerly endangered it; if public order is maintained and public opinion re-assured,—we owe it to the Royal Court of Paris.'"

The *Constitutionnel* was acquitted. But this judgment of the court kindled a lively quarrel between the magistracy and the clergy, which was a misfortune and and a scandal, and in which both parties were betrayed into unseemly violence and recrimination. The clergy especially signalized themselves by the unmeasured bitterness of their language. "Should we be ashamed," said the Bishop of Moulins, "to be the mark of *wicked decrees*, when Jesus Christ, innocence itself, compared with Barabbas, was pronounced more guilty than that notorious malefactor?" And the Bishop of Nancy, after a pompous eulogium on the Jesuits, protested "against the fresh scandals and the disgraceful triumphs which, in a process of shameful celebrity, the zealots of an impious sect parade before the eyes of France and of the world."

M. Dupin left the Bar in August 1830, on being appointed *Procureur-Général* in the Court of Cassation, where he discharged the duties of that high office for more than thirty years with great fidelity and success. As a magistrate, he interpreted the civil laws with wisdom, the political laws with independence, and the criminal laws with mildness. He was, indeed, always careful not to permit crime to escape unpunished, but he was, at the same time, steadily opposed to severe penal laws. "The most rigorous laws," he said in 1832, "are in general the least efficacious. The most important essential to the proper administration of justice is the certainty of repression." He did not wish to disarm the law, but to render it more effective by rendering it more moderate. "The mitigation of the penal laws," he affirmed in 1833, "would be of the utmost advantage to morality and the public interest, as well as to humanity." He was strongly opposed to the unfair and easily-abused practice of the extension of criminal laws by analogy. "Better impunity," he once exclaimed, "than excess of power, than the scandal of the judge who, on his own authority, oversteps the boundaries of the law,

which he stretches beyond its limits. I repudiate analogies in penal cases." He was also a consistent and steady champion of the liberty of defence; and, in 1815, published a pamphlet entitled *De la libre défense des accusés*, having for its principal object the refutation of the views put forth by certain persons, that advocates could not defend those accused of crimes against the state without rendering themselves, so to speak, their accomplices. We extract the following passage:—"When the crime is legally proved, and the accused clearly convicted; when their defence has been exhausted; when the competence of their judges is unquestionable,—it is then that punishment becomes efficacious, because the public, thoroughly convinced of their culpability, mingles its execrations with the sentence of the judges. But if, on the contrary, we are content with vague presumptions, uncertain indications, haphazard conjectures; if some form has been neglected; if the accused has not been arraigned before his natural judges; if his advocate has been interrupted, cut short, brow-beaten,—the sentence loses its effect, and the same public, passing suddenly from indignation to compassion, ceases to applaud the death of the guilty, and compassionates the fate of those whom it regards as illegally condemned. So true is it, that *the scrupulous observation of forms* and *the liberty of defence* are, both for the accused and for the public, the best guarantee of the justice of condemnations!"

In 1832, M. Dupin became President of the Chamber of Deputies, to which office he was seven times re-elected. He was also President of the Legislative Assembly in 1849; and, in both of these important and difficult positions, he displayed much courage, firmness, and tact. On the publication of the decree confiscating the property of the Orleans family, he resigned the office of *Procureur-Général*, but again accepted it in 1857; and, in an address written at the time, he says, "I have always belonged to France, and never to a party." He succeeded Baron Cuvier in the French Academy in 1832. He has written a number of works on a great variety of subjects, secular and sacred; but his writings, for

the most part, are not worthy of him, being hastily composed, superficial in thought and matter, and defective in style. Even his Memoirs—which his long life, varied experience, profound knowledge of men and of business, and the great number of high offices which he has filled, ought to have rendered both interesting and instructive—have proved a failure. They are too long and too exclusively egotistical, and the writer does not possess either the art of pleasing narrative, or the power of vivid and descriptive character-painting. M. Dupin's long and successful career terminated in the beginning of 1867. He was in his eighty-fourth year at the time of his death. The history of his life—like that of Dufaure, Odillon-Barrot, Teste, Bethmont, Delangle, Thiers, Barthe, Baroche, Billault, Jules Favre, and many other advocates who might easily be mentioned, who have been ornaments of the Bar and of the Tribune, and have held high office under one or more of the many Governments that France has seen during the last forty years—is amply sufficient to show that the French Bar, even under the absolute rule of the present Emperor, still continues to adhere to the traditions of its order, and still exercises a powerful influence over the political destinies of France.

There have been more eloquent orators, more bold and skilful legislators, more profound lawyers at the French Bar than M. Dupin. But no one has displayed more tact, good sense, and practical business talents, or has had his abilities more thoroughly under control, and ready, at a moment's notice, to answer every call made upon them; nor has any one thrown himself more thoroughly into the current of his age, without ever suffering himself to be swept away by it. His success was uniform, his labours unceasing. Years brought neither lassitude nor cessation from toil. He seemed to abhor repose, and to be determined to remain for ever young. As a speaker, M. Dupin wanted grace, elevation, continued and sustained dignity; and, at first sight, the simplicity and want of distinction about his person and manner were somewhat disappointing. But he possessed such originality

of style, such natural and lively language, such vigorous logic, such effective sallies which diversified and lighted up his oratory, and such appropriate action, that those who heard him soon forgot his defects, and were lost in admiration of his many excellencies. M. Guizot, in his Memoirs, gives the following description of this eminent lawyer and statesman while discussing the formation of the Cabinet of 1832, of which he was invited to become a member. "When compelled by circumstances," he says, "he had often displayed boldly, in the service of the good cause, the natural and eloquent vein of his lively intellect, but he had no turn for great tasks, or important responsibilities. Public functions gratified him far beyond political power. All general engagements, or long and pressing obligations, were repugnant to the vivacity of his spirit, the whims of his disposition, or the calculations of his prudence. He liked to serve, but not to devote himself; and even when he did serve, he kept himself as much disentangled as possible, resuming incessantly, by sudden inconsistencies, some portion or appearance of the independence he had seemed to sacrifice."

M. Philippe Dupin was more than twelve years younger than his celebrated brother, but, like him, he possessed great justness of view, much practical sagacity and good sense, a lively intellect, and remarkable powers of application. His abilities were early developed. He was advocate when scarcely twenty, and when only twenty-five he defended the editor of the *Constitutionnel*, who was accused of having assailed public morality and religion, merely on account of his having attacked a band of ultramontane missionaries, who were travelling everywhere with the object of propagating their views throughout France. The exordium of M. Dupin's address is clever and skilful. "Ever since certain missionaries began to overrun France and catechise our provinces, their preaching—an object of lively satisfaction to some, and of scandal to others—has excited a keen controversy, and given rise to animated disputes. Whilst one party sees in that domiciliary preaching a means of rekindling the luke-

warm zeal of the faithful, of restoring to religion its empire and its renown, of establishing morality on its true foundations; the opposite party perceives only a source of discord and trouble, a means of stirring up imperfectly extinguished hatreds, of reviving obsolete superstitions, of awakening religious intolerance. The ultramontanist legions have been by turns attacked and defended with more or less zeal by our political and religious writers, and even in the bosom of the Chambers they have found apologists or censors. In this struggle it was impossible for the journals to remain silent. Intended, under a representative Government, to enlighten the public with regard to all facts that could interest them, they were bound to follow the march of this new militia, to give an account of their operations, and to indicate what in these operations appeared to them to be contrary to the laws of the State or the public peace. But in these discussions religion was always respected; far from imputing to it the errors of some of its ministers, they took pleasure in recognising and proclaiming that its morality is sublime and pure, like its author; that it inculcates tolerance, charity, obedience to the laws; and if they did attack the missionaries it was for not following these divine precepts. Besides, at the very time that they remonstrated against the excursions of these fathers of the faith, they were always careful (and the article denounced is a proof of it) to render homage to the piety of the true pastors, who, stationary in the midst of their flock, practise all the Christian virtues, console the afflicted, relieve the poor, heal dissensions, and do all that is possible to make men appreciate the advantages of a benevolent and consoling religion. . . . In a cause of this nature, and to avoid all unfair construction, I consider myself bound on commencing, to protest my respect for the religion of my fathers, and for its true ministers, disavowing beforehand, as contrary to my sentiments and to my thoughts, all which could offend them."

M. Dupin also signalized his abilities in the famous case of the disputed succession of the last Prince of Condé, already alluded to in our sketch of M. Hennequin. He supported

the claims of the Duc d'Aumale, the universal legatee under the Prince of Condé's will, against those of the Prince and Princess de Rohan, the heirs by blood, which were maintained by Hennequin. King Louis Philippe was accused of having stooped to unworthy intrigues to procure the aggrandizement of his family; and the affair assumed quite a party aspect. In no cause, of the vast number intrusted to him, did M. Dupin display more ability, tact, mastery of details, and eloquence than in this process, which he succeeded in gaining for his client, in spite of the talents and resources of the accomplished counsel opposed to him. M. Dupin had the honour of being elected *bâtonnier* at the unusually early age of thirty-seven. He died, in his fifty-second year, at Pisa, whither he had gone in the vain endeavour to recruit a constitution prematurely worn out by the incessant fatigue of the greatest and most varied business at the Bar. M. Pinard expresses the very highest admiration for the talents of M. Dupin as an advocate, ranking him even above his better-known elder brother. "If indeed," he says in one place, "the art of using with firmness and truth the language most appropriate to the subject, and that without effort, without affectation, be eloquence, M. Philippe Dupin is, of all the advocates of our time, the most eloquent. His originality—for he was original, as all true talents are—had this peculiarity about it, that there was no sign by which it could be recognised. So sincere was it, it did not display itself; it escaped notice at first sight. He required to be studied to be known. He had few attractions: none of those brilliant and exclusive qualities were found in him which seduce and sometimes deceive. He did not possess the fascination of M. Chaix d'est-Ange, the power of M. Berryer, the tact of M. Dupin the elder, the pathos of M. Barthe, the emotion of M. Bethmont, the refinement of M. Paillet, the care of M. Hennequin, the art of M. Maugin, the logic of M. Tripier and M. Delangle, the science of M. de Vatismenil. He had this peculiarity, that, taken in detail, he had masters; but when his character was considered as a whole, he had no equal."

CHAPTER XI.

The Bar of the Nineteenth Century continued—MM. Dufaure, Chaix-d'est-Ange, Odillon-Barrot, Crémieux, Maugin, Teste, Marie.

ANOTHER distinguished advocate, contemporary with Berryer and the elder Dupin, and, like them, great both in the Tribune and at the Bar, is M. Dufaure, who was *bâtonnier* of the Bar of Bordeaux when only thirty-two, and in his old age was elected *bâtonnier* of the Parisian Bar; who gave up his profession for twenty years in order to devote himself exclusively to political life; who has held office under different administrations, as Minister of the Interior and Minister of Public Works; who returned to the Bar in 1852, after the *coup d'état* which made the present Emperor absolute master of France, and almost immediately found himself overwhelmed with business; who has since with admirable tact and talent conducted some of the most celebrated causes of our time, such as those of Pescatore, of Michel, of the Duke d'Aumale, of the Marquis de Flers, and many others that might easily be mentioned; and whose political and professional reputation throughout all the changes he has seen, and under all the Governments he has served, has remained without a stain. M. Dufaure has always been distinguished by indefatigable industry, great firmness of character, and unflinching devotion to his political and professional duties. In 1834, he was returned by the electors of Saintes as their representative in the Chamber of Deputies. From that moment he devoted himself to politics, and made himself master of every subject that came before the House,—questions of finance, of public works, of general and local interest, of trifling or of great moment. He took a leading part in

drawing up most of the important laws that were then passed; and the merit of his services was so universally acknowledged that a medal was struck in his honour as a laborious and useful citizen. In the discussion of general affairs his talents and industry were also conspicuous, and the journals of the time prove his immense activity, and his success in the Tribune. Down to 1848, the electors of Saintes continued to re-elect M. Dufaure as their representative, and during this period of his career he was elevated to high political dignity, being made Councillor of State under the Ministry of Thiers, Minister of Public Works after the *émeute* of 12th May, and twice Vice-President of the Chamber. M. Dufaure possesses all the requisites of a great parliamentary orator. His coolness is imperturbable, his language clear and appropriate, his reasoning vigorous and pointed, his power of reply remarkable. His political tact and foresight are also unusual. Strongly opposed to the Ministry of Molé, he did not hesitate a moment in throwing up his post as Councillor of State when his ministry replaced that of M. Thiers. On the 12th May, when the conspiracy of Barbès spread alarm throughout France, and seemed to prove the weakness of the foundations of the monarchy, he at once came forward, along with Marshal Soult, to face the crisis. When M. Guizot was charged with forming a Cabinet, M. Dufaure declined to make part of it, and bided his time along with the increasing party which he had gathered around him in the Chamber of those who had separated themselves from the fortunes of the triumvirs—Thiers, Guizot, and Odillon-Barrot. His weight in the House, and with the country, was steadily increasing, and he would probably have erelong been Prime Minister of France, when all was ended by the revolution of February,—that monstrous and incomparable folly for which France has since paid so dear. During the two years that followed the revolution, M. Dufaure was twice called to the office of Minister of the Interior, first by General Cavaignac and subsequently by Louis Napoleon. After the *coup d'état* which destroyed the constitution and enslaved France, he finally retired from political

life. During his tenure of power he never flattered or cringed to the people; and, when need was, did not hesitate to tell the country bitter truths. He never sacrificed duty to ambition, and all parties, foes as well as friends, acknowledge his unshaken integrity.

M. Chaix d'est-Ange, *bâtonnier* of the order of advocates in 1842 and 1843, and *Procureur-Général* of the Imperial Court in 1855, was a distinguished fellow-student of M. Dufaure. He had an immense business at the Bar; and, in criminal cases especially, displayed abilities and eloquence of the highest order. His orations and pleadings have been published in two volumes. He was born at Rheims, in 1800, and from a very early age showed peculiar aptitude for the Bar. He possessed a splendid voice, appropriate gestures, a clear, vigorous, and often impassioned eloquence, joined to an invincible assurance, and a courage that was attracted by dangers and difficulties. There was also a remarkable precocity about his talents; and, at his *début* at the Bar, he appeared almost as consummate an advocate as when at the height of his professional career. "Such as we have seen him," says a biographer, "skilful, impetuous, flattering, sarcastic, severe, eloquent, master in the art of detailing, of enhancing facts, such he was from the first day. He who had then sketched his portrait would now have little more to do than to retouch it by adding the traces that years bring along with them." Such gifts could not fail to command rapid success, and from the age of twenty, M. Chaix d'est-Ange began to be surrounded by business. At twenty-eight, he was engaged in the important political case of Cauchois-Lemaire, a writer who had prophesied the advent of the Duke of Orleans to the throne of France, who was prosecuted for thus inciting the people to revolution, and who, in spite of the eloquent defence of his counsel, was condemned to fifteen months' imprisonment, and a fine of 2000 francs, thus paying rather dear for the honour of being a prophet in his own country. In December 1832, M. Chaix d'est-Ange pleaded before the Commercial Tribunal of the Seine for M. d'Argout,

the then Minister of Commerce, against Victor Hugo, with regard to the play of *Le Roi s'amuse*, whose representation had been interdicted. The question was, whether such an interdiction was within the province of the administrative power, and whether the poet was not entitled to be relieved from it by the judicial authority? Victor Hugo spoke in his own defence, and was assisted by M. Odillon-Barrot.

M. Chaix d'est-Ange has always been remarkable for the tact and power with which he sets forth his facts, and no one has ever known better how to give a charm, an attraction, an effect to the details of the case by his manner of narrating them. One of his greatest triumphs was achieved in the case of Benoit, where the force of his eloquence compelled the murderer to confess his crimes in open court. The case was tried in the summer of 1832. Benoit, the guilty party, was a wretched young man, a thief and debauchee of the most infamous character, who had murdered his mother, and had afterwards assassinated an associate whose revelations he feared. M. Chaix d'est-Ange accused him at the instance of a man who had himself been tried for the assassination of Fromage, Benoit's associate, and who had narrowly escaped conviction, so nearly balanced were the jury; who had ever since been the victim of horrible suspicions, and whose innocence could only be established by proving the crime of Benoit; both crimes indeed, for they were closely connected; the one was explained by the other, and it was necessary to fix the guilt of the matricide at Vouziers and the assassination at Versailles upon the same head. It was a difficult and delicate task, but one which M. Chaix d'est-Ange discharged with admirable skill. The pleading he then delivered is in many respects his most successful effort. By sheer force of eloquence it wrung an avowal from the hardened conscience of the murderer; and the following harrowing and terrible picture of the assassination of Fromage by Benoit may afford some idea of its wonderful dramatic power. "Will you tell me," said the advocate, apostrophizing Benoit, "that I have not narrated everything, that I have left them at the door

of the Hotel of the Baths without daring to enter it along with them, without venturing to say what took place there? Well then, listen to me. There is a scene that took place there, to which no witness can speak, and I know that in your blindness you say 'No one has seen me, justice cannot touch me.' Yet, that scene, I know it all, and shall bring it before you. Listen to me, I tell you, and if you still persist in your denial, let your voice arise to give the lie to that blood which has told everything; for in that narrow space, in that chamber still stained with carnage, we have discovered, we have seen, all the details of the crime, the unparalleled struggles of the victim, and the determined rage of the murderer. It is by that door that they have entered. On that bed, still pressed down, slept the assassin; opposite, on that sofa, reposed the victim, and when sleep, a sleep rendered heavy by the fatigues of the night, closes his eyes, the assassin opens his . . . he listens . . . he raises himself. All around is favourable, he seizes the instrument of death. On that bed from which he rises, you yet find the paper which served to wrap it up. He steals towards the unfortunate, whose throat is stretched out towards him; with a single and rapid movement, whilst the strong pressure of his knee holds and keeps him down, he seizes his head with his left hand, and with the right inflicts on him a frightful wound. Ah! . . . the gash is doubtless mortal, and yet life, that life so full of strength and youth, still resists, the victim still struggles. Poor youth! . . . perhaps that morning, under that window, laughter and joyful songs are heard; perhaps at the end of that passage the sound of the steps of a passer-by reaches your ears. You would fain cry for help. Ah! unhappy youth, exhaust not thus your strength; your voice cannot find vent, your cries of despair are stifled in your blood . . . he struggles nevertheless, he drags himself towards the door; but on the threshold of that closed door stands the assassin, and the blood which you there see indicates that there the struggle has been prolonged. Another door has caught his eye; he will open it perchance! . . . he rushes, or

rather he drags himself to it, a stronger hand still arrests him. Do you see? . . . horror! Do you see on that night-table the blood which inundates it, and the hairs which the razor has cut? . . . Well then! it is there that the last struggle has taken place, there that he has received the seventeen wounds that followed the first one. Then his resistance grew less vigorous, his efforts less powerful; for life at length ebbed away, and soon exhausted, succourless, despairing, near the stain which marks his fall, he sinks on the threshold of that door which was never to open for him; he shudders, he expires!"

Fifteen years after the case of Benoit, it fell to the lot of M. Chaix d'est-Ange to defend a young man whose father had been murdered, and who was accused by the murderer of having prompted and caused the crime, and of having used him as the instrument of it. This accusation was persisted in with the utmost pertinacity and virulence, but there was much inconsistency and variation in some of the statements with which it was accompanied. The assassin was the terror of his own neighbourhood, and had been guilty of many misdeeds before the crime which he attempted to throw upon an innocent man. The following is the peroration of M. Chaix d'est-Ange's pleading:—"And now, gentlemen, that I have arrived at the end of these discussions, I hope that I have destroyed the charges of the accusation, that I have dissipated your doubts, and that your conviction is the same as my own. Of all the charges brought against my client there remains only one; it is the declaration, the partial declaration by that wretch so often convicted of imposture. After having accused the gardener, whom he did not even know, he accuses the son of his victim. He had one means, one only, to soften those who judge upon earth, or to prepare himself to appear before God. He had but one course of safety; it was to speak the truth. After having invented all these lies; after having fabricated that monstrous accusation; after having aggravated his horrible crime by one still more horrible, he had only one way of safety in this world, one way of safety in the

next,—it was to throw himself at the feet of justice, to implore pardon, to proclaim the truth. But he has persisted, he has believed that he would save himself by falsehood; he has tried to save himself at any price; he has invented all sorts of execrable combinations. Well then! let him be accursed since he still persists in a lie, since, after having assassinated the father, he would make the innocent son mount the scaffold, and would thus destroy a whole family.... Yes, let him be accursed! . . . and whatever happens here, whatever you decide, his fate is fixed; passing from the hand of man under the eternal hand of God, he will go from justice to justice, from condemnation to condemnation, to expiate crimes of which the measure is full, and which hitherto, at least, have been unexampled among us."

M. Odillon-Barrot, born in 1791, was another distinguished ornament of the Bar and of the Chamber of Deputies. He took a leading part in the Revolution of 1830, and, under the monarchy of Louis Philippe, was a strenuous opponent of M. Guizot, and ardent in agitating for reform. He attended several of the provincial banquets, the interdiction of which ultimately led to the Revolution of 1848. He was in favour of the establishment of a regency under the Duchess of Orleans, and was President of the Council in 1848. In 1852 he retired from public life. He is a brilliant writer, and his work, *De la Centralisation et de ses Effets*, published in 1861, forcibly points out one of the chief defects of the present Government of France, and its proper remedies. The postscript to that work is full of truth and wisdom, and gives a good idea of the style and mode of thinking of this eminent advocate and statesman. "When I wrote these lines," he says, "parliamentary government seemed for ever abolished in France; and, among certain people, there appeared to be but little regret for its loss. And behold, suddenly, to the great surprise of some, to the great delight of others, a decree of the 24th November last has restored its voice to the Tribune, and to the Chambers a part of their parliamentary importance, by associating them more intimately with the Government of

the country. It is a spontaneous return of the Sovereign towards institutions which the multitude but lately proclaimed impossible, but which all enlightened minds persisted,—not unreasonably, as we see,—in declaring necessary and inevitable. France has no great liking for conceded liberties; she justly distrusts them, for she has already proved that the power which bestows, believes that it has also the right of withdrawing them. But in truth, we have shown ourselves so little able to preserve those which we have won, that we have not the right to be too particular about those which are given us; and besides, the more free the concession has been, the more of a political significance it has in my eyes; for so much the more it bears witness to that irresistible force of events to which the mind of the Sovereign has yielded. Singular political puzzle! a Government which we considered, and which I myself declared, in the preceding pages, to be incapable of reform, is notwithstanding reformed; and that Government which we had, on the other hand, selected from among all as most easily lending itself to reforms, has neither been able nor willing to reform itself, and has on that account perished. Let us not, however, be too hasty. I do not wish to detract from the importance of the reform contained in the decree of 24th November; but the mind which conceived it, has, undoubtedly, already perceived that it is incomplete. It is unquestionably a considerable step in advance, and approaches the goal, but is still far distant from it. Every year, on a fixed day, *The Chambers*—the word is in the decree—shall have not only the right, but it shall be their duty, solemnly to debate upon the home and foreign policy of the Government, and to state their approval or disapproval of that policy. The chief of the State has done well in making that concession, to offer it to the country as a proof of his confidence. But it would be somewhat dangerous if he did not complete it; for then he would add to the irritation of discussion that of powerlessness. If such solemn debates as those which are about to be evoked shall terminate in vain speech, in loud harangues, then indeed the end of such insti-

tutions would consist in a barren and dangerous loquacity. If, on the other hand, grievances are made so evident, if they are so freely and energetically stated, that it becomes necessary to take a decisive part, then the personality of the sovereign may find itself in direct opposition to the opinion of the country. If he yields, his authority may be diminished; if he resists, it is he himself and not his ministers who must bear the responsibility of resistance. All is necessarily connected in the marvellous mechanism of parliamentary government; the most essential pieces of mechanism are not always the most apparent, nor those which are especially mentioned in the constitutions. The necessity of the interposition of responsible ministers is the inevitable consequence of the liberty of discussion and the right of censure, for the head of the State cannot with impunity be either discussed or censured. It has been said that the logic of facts is inflexible. The Emperor will take care that that logic is not enforced upon him; he will grant it beforehand; he will not desire to reap only the dangers of parliamentary government; he will also desire to reap its advantages. But he would effect nothing, unless, profiting by the experience of the past, he completed his political reform by a thorough reform in administrative centralization. He would not be slow to perceive how that instrument, so powerful in the hands of an absolute sovereign, is dangerous for the chief of a free state. The thorough decentralization of the Imperial administration will be, I know, the most difficult step to take. Although there remains on my mind the impression that the Emperor, who has not lived in the midst of English society without gathering from it certain teachings, cannot be so blind and absolute a partisan of administrative centralization as they would lead us to suppose; yet, it is in vain to disguise, that in public opinion, as in the traditions of history, *empire* and *centralization* are, to some extent, identities which it would be very difficult to separate. But if we wish to return into the paths of liberty, if we fear neither the storms nor the responsibilities, if we wish to give free play to representative institu-

tions, we must necessarily renounce this centralization. In maintaining it, while we would re-establish free discussion and parliamentary influence over the affairs of the country, we would only organize a permanent conflict in the very bosom of the Government; and for the third or fourth time, in France, we should arrive at the fatal result, either of destroying liberty by centralization, or of making the central power crumble to the dust under the agitations of liberty."

M. J. Adolphe Crémieux is another great name among those members of the Bar who were in the vigour of their powers and the flower of their age at the time of the Revolution of 1830, and during the reign of Louis Philippe. He was born at Nismes, in 1796, and highly distinguished himself both at the provincial and the Parisian Bar. In the numerous trials for political offences that marked the reign of the citizen King he took a prominent part, and he had also an immense business in civil cases, having the advantage of possessing not only a profound knowledge of law, but also a facile and graceful elocution. In 1842, he was elected to the Chamber of Deputies, where he sat on the extreme left, and continued his opposition to the Government down to the Revolution of 1848. After the flight of the King, he, like Odillon-Barrot, was in favour of a Regency under the Duchess of Orleans, and drew up the following address for the Duchess to deliver to the people :—"It is from the national will that my son and I wish to derive our powers. I, the widow of the Duke of Orleans, and his orphan son, await your decision with confidence. This much is certain, that I shall educate my son to entertain the most lively feelings of love for his country and for liberty." M. Crémieux was a member of the Provisional Government, under which he held the Ministry of Justice, which he signalized by many important reforms; such as the abrogation of the laws of September against the press, the extension given to the safeguard of trial by jury, the suppression of the pillory, increased facilities afforded for the reformation of criminals, the abatement of law charges, the abolition of imprisonment for debt, and improved modes

of naturalization accorded to foreigners. During his tenure of power, he declared himself strongly opposed to the principle of the immoveability of judges, as incompatible with the spirit of those republican institutions of which he was a strenuous supporter. He resigned his functions as Minister in June 1848, but took an active part in the délibérations of the Constituent Assembly. He was arrested by Louis Napoleon on the occasion of the *coup d'état* of December 1851, but was released twenty days afterwards. Since then, he has not mixed in political life, but has confined himself to his professional labours. It has been said of M. Crémieux, in spite of the high reputation he has won as advocate, writer, and politician, that his abilities are more showy than substantial. But this is a mistake. They rest on a firm and solid foundation. In him there is a remarkable union of imagination, knowledge, and vigorous reasoning. He states his facts with wonderful clearness. He discusses points of law without tediousness, without repetitions, without useless citations, but broadly, profoundly, concisely. In his pleadings he does not aim at brilliancy, but displays great breadth of view, simplicity, and sobriety. He speaks of his antagonists with courtesy, of the judges with respect, and never condescends to any of those bitter expressions which the rivalries of the Bar too often give rise to.

François Maugin was another of the advocates and statesmen of 1830. He was born at Dijon, in 1786, and died at Saumur, in 1854. In 1813, he made his *début* at the Parisian Bar, where he became early conspicuous for unusual excellence in the ornamental part of the art of speaking, possessing a pure, equal, and melodious voice, graceful and appropriate gestures, and perfect self-possession; while he had at the same time a vigorous understanding, much shrewdness and sarcastic power, and an inexhaustible fertility of resources. With such talents he could scarcely fail of attaining success, and accordingly we find him very soon in a prominent position. In 1815, he displayed great eloquence and intrepidity in the defence of Labédoyère, and was soon afterwards successful in procuring

the acquittal of a servant of Lavalette, who was accused of favouring the escape of his master. He defended a number of other parties accused of political offences; and the conclusion of his brilliant defence of the editors of the *Bibliothèque Historique* is still regarded as containing the most accurate and masterly statement of the law upon the subject of the press. He put the crown to his reputation by his pleading for Colonel Fabvier, accused of defamation by General Canuel, whose sanguinary proceedings at Lyons he had publicly attacked. General Canuel had been appointed Military Commandant at Lyons in 1816 by Marshal Marmont, with the view of quieting the disturbed state of the country. In June of that year an insurrection broke out, which was speedily and easily quelled, but more than 200 persons were tried before a military court, eleven of whom were sentenced to death. It was alleged that General Canuel had allowed the insurrection to grow, and had even fomented it, in order to acquire the merit of putting it down; and, in 1817, Colonel Fabvier and De Sainneville, former Commissary of Police at Lyons, printed a document in which the General was accused of having urged the conspirators to their fate. Hence the action for calumny. Maugin was unsuccessful in his defence, and his clients were each condemned in £120 of damages; but his pleading produced an immense sensation, and not only placed him in the foremost rank as an orator, but also marked him out as an advanced liberal, and as utterly opposed to the existing monarchy. In 1827, two electoral colleges elected him as a member of the Chamber of Deputies. He chose that of Côte-d'Or, which he continued to represent until 1848. He was an active supporter of the opposition, and was one of the 221 deputies who, in their address to the throne, stated their want of confidence in the Polignac Ministry. Maugin adopted the popular side in the Revolution of 1830, and was a member of the Provisional Government, but was too strong a republican to approve of the election of Louis Philippe to the vacant throne. He was steadily opposed to his *régime*, and made for himself an isolated and peculiar position in the Chamber. He was a sort

of French Roebuck; and it was said of him that "he was a dangerous enemy and not a safe friend." His bold and bitter attacks on all the successive ministries provoked more than one storm in the Chamber, and brought on a duel between him and M. Viennet, which however terminated without bloodshed. M. Maugin had the honour of being the first *bâtonnier* elected by the Parisian Bar after the Revolution of 1830, when the right of election was restored to the whole order of advocates. When the Revolution of 1848 broke out he had lost much of his influence; but he was elected member of the Constituent Assembly, and made one of the Committee on Foreign Affairs. He was afterwards re-elected to the Legislative Assembly, where he returned to that opposition to existing institutions which had become to him a second nature. In December 1850 he was arrested for debt, and placed in the debtors' prison at Clichy; and, although he claimed the personal inviolability due to a representative of the people, the Civil Tribunal of the Seine decided that the existing laws did not recognise the immunity he claimed. This decision, however, excited the indignation of the Assembly, and one of its questors demanded the assistance of the military to effect the liberation of the incarcerated deputy. The *coup d'état* of 1851 consigned Maugin to obscurity, and he went to die at the residence of his daughter, the Countess de Rochefort. Several of his pleadings and reports have been printed. Among the best of his published speeches is one on the Eastern question, delivered in 1840. His person and the character of his oratory are thus described by a brilliant French writer (M. de Cormenin):—"He had an open countenance, bright and spiritual eyes, a clear and firm voice, a somewhat emphatic delivery. His gestures were noble, his speech distinct, his attitude imposing; he was not so long, so diffuse, so much the advocate as the other advocates were; he sometimes spoiled his style by trying to be too careful; but his phraseology was more declamatory in the tone than in the words, in the accent than in the ideas. . . . Sometimes, when he became animated, and when the natural prevailed over the

artificial man, he ceased to be a rhetorician, became an orator, and rose to the highest flights of eloquence. Then he made his hearers shudder, grow pale, and weep at the recital of the wrongs of expiring Poland. He spoke from the bottom of his heart, he sighed, he became agitated, overwhelmed with emotion. But these heart-felt effusions were rare with Maugin, too much master of himself to succeed in finding the pathetic, which we only find when we do not seek it. On the other hand, he managed with consummate skill poignant sarcasm and sharp-edged irony. He was a rude opponent; fertile, vigorous, bold, pressing. He was to be intimidated neither by sneers nor by murmurs. He grew cool as his adversaries grew warm. I have seen him appear to great advantage in the Tribune when contending against Casimir-Perier his redoubtable antagonist. The minister exhausted, panting, flashed at the Tribune the lightnings of his fiery eyes, sprang upon a bench, uttered incoherent exclamations mixed with menaces. Maugin, with smiling lips, discharging shafts at him, which remained quivering under the skin. He flew round the minister, and, so to speak, perched on his forehead like the ox-fly that stings a roaring bull; he entered into his nostrils, and Casimir-Perier foamed, gave way, and demanded quarter. A bad politician, from weakness of conviction rather than from feebleness of character, but an excellent orator, sometimes equal to the greatest; by turns eloquent, always full, clear, concise, firm, telling; full of resources, well-informed, penetrating, flexible, calculating, calm in the storm, controlling his passions, less to suppress than to guide them at his will, and suspending his irritation, only the better to sharpen and hurl back the bitter arrows which were launched at him; a graceful and captivating man, somewhat presumptuous and greedy of praise, and whom, to sum up all in a word, one could neither love nor hate strongly."

Jean-Baptiste Teste, *bâtonnier* of his order in 1838, was one of the greatest lawyers of the period of which we are treating. He was the son of a notary, was born in 1780, at Bagnols, and was early remarkable for the clearness of his intellect and

the fluency of his speech, which his father endeavoured to develop to the utmost by accustoming him, while still very young, to listen to and to take part in public discussions. In 1799, he went to study law at Paris, where he was distinguished by his indefatigable industry, always rising at four in the morning. He had the advantages of a fine person, a handsome face, and an agreeable voice; and but a short time after he had settled at Nismes, he rose to be one of the most famous advocates in the south of France. In July 1815 he gave a brilliant example of civil courage, as well as of tact and eloquence, by addressing an excited and exasperated mob at Lyons, and quieting what seemed likely to become a very dangerous commotion.

On the restoration, he found himself comprised in the list of exiles as a partisan of Napoleon, and took refuge at Liège, where he practised at the Bar with much success. In the great case between the families of Orleans and Rohan, with regard to the Dukedom of Bouillon, he was intrusted with the management of the interests of the former. After the Revolution of 1830, he returned to France, and speedily took his place among the leading members of the Parisian Bar. The first case in which he distinguished himself was that wherein, as advocate of the Treasury, he had to plead against the Duchess of Berri. It was a case bristling with difficulties, and involving intricate and delicate questions both of public and of private law. But it was well calculated to bring prominently into notice the profound legal knowledge of M. Teste, his breadth of view, his clearness of exposition, and his power of argument. Rumour had not exaggerated his talents. He was truly a great advocate and a great orator. In 1831, he was elected a deputy by the Department of Gard, and acquired great reputation in the Chamber by his speeches on questions of commerce and public works. In 1836, and again in 1839 he was elected Vice-President of the Chamber, and, after the fall of the Molé administration, he was made Keeper of the Seals. The next honours he received were those of Peer of France, and President of the Court of Cassation; and, in

1846, he was made Grand Officer of the Legion of Honour. He seemed almost overwhelmed with offices and rewards; but a terrible eclipse of all his glory was at hand. In May 1847 a journal, named *Le Droit*, in narrating an action commenced by Parmentier against General Despans-Cubières, gave extracts from a correspondence in which the General spoke of pecuniary corruption brought to bear on the Minister of Public Works—an office held by Teste in 1843, the period alluded to in the correspondence—in order to obtain the concession of the mines of rock-salt at Gouhenans. On the 4th of May, in the Chamber of Peers, M. Teste moved in emphatic terms, that the Chamber should repel, in the most peremptory manner, the insinuations by which the honour and reputation of one of its members were attempted to be tarnished. On the 5th, a royal ordinance sent the case of General Cubières and his associates to the Court of Peers. The investigation that followed was conducted by Delangle, then *Procureur-Général*, and was of the most minute and searching character. Voluminous correspondence was seized. The Ministers of Finance and of Public Works, and the Council of State, put all the documents relating to the matter in their respective departments at the service of the Court; and, on the 26th June, a decree was pronounced, finding that Teste had been guilty of entertaining offers and receiving gifts and presents for unduly lending the influence of his official position and authority; and it further ordered the prosecution of Teste, Cubières, Parmentier, and Pellapra, before the Chamber of Peers. The last named fled from justice. The debate opened in the beginning of July, and lasted for ten days. The spectacle was a strange and a painful one. Among the accused were two former ministers,—one General Cubières, who had been lieutenant at seventeen, and colonel at twenty-five, who had been covered with wounds at Waterloo, and who could point to services rendered and blood poured out for his country; the other, bent under the weight of toil and vicissitudes rather than years, one of the greatest advocates and orators in France, and almost without a rival at the Bar. The latter,

previously to the commencement of the discussions, addressed the following letter to the King,—a most remarkable and humiliating document, when we remember that he who wrote it must at the time have been conscious of the truth of the charges brought against him:—"Sire," he said, "I owe to your Majesty, in return for a devotion of which I have exerted myself to multiply the proofs, the dignity of Peer of France and the honour of sitting in the highest Court of the kingdom as one of its presidents. To-morrow I encounter a solemn investigation, with the firm assurance of emerging from it without losing any of my titles to the public esteem and that of your Majesty. But a Peer of France, a magistrate, who has the misfortune to be implicated in an accusation of corruption, owes it to himself to re-establish his title to the confidence of the sovereign who has conferred that double character. I place in the hands of your Majesty my resignation of the dignity of Peer of France and that of the functions of President in the Court of Cassation, in order that I may have no protection in the discussions that are about to open except my innocence." During the prolonged and searching investigation that followed, M. Teste displayed even more than his usual tact, firmness, ability, and coolness. But, on the 12th July, certain documents, communicated by Mme. Pellapra to the Chancellor, entirely changed the aspect of the case. Among these documents were many letters written by Teste, an account of sums negotiated to make up the price of corruption, and other evidence, which made the case against him indisputable. The same night he endeavoured to commit suicide in prison by shooting himself, but the pistol-ball only produced a severe contusion on his left breast. Next day, the 13th July, Teste did not appear at the trial, but he wrote a letter to the Chancellor, containing a full avowal of his guilt. "The incidents at the trial of yesterday," he said, "render exculpation impossible, so far as I am concerned, and I consider the discussion with regard to myself as terminated and definitively closed. I accept beforehand all that may be done by the Court in my absence,

Certainly it will not wish, in order to obtain a personal appearance henceforth useless for the ends of justice and for the manifestation of truth, to use against me personal coercion, nor to triumph by force over a desperate resistance. I also entreat the Court to believe that this irrevocable resolution on my part is not inconsistent with my profound and heartfelt respect for the character and authority of my judges." After a deliberation of four days, sentence was pronounced against Teste, condemning him to the penalty of civic degradation, to a fine of nearly £4000, and three years' imprisonment. He was at first sent to the Conciergerie, but was permitted to quit that prison in August 1849, and to take up his abode in a private establishment, where he completed his term of imprisonment. His latter days were spent at Passy, where he still occupied himself with the professional pursuits he so deeply loved, and where he still retained a good many clients. He died in 1853, surrounded by friends and pupils, and by the sympathies of his fellow-countrymen of the south, who were faithful to him to the last.

Alexandre Thomas Marie, born at Auxerre in 1795, and enrolled as a member of the Parisian Bar in 1819, has made a name for himself both as an advocate and as a statesman. At the period of the Revolution of 1830 he was one of the leaders of the Bar, and defended with much ability and success a number of those accused of political offences arising out of events connected with that revolution. He was *bâtonnier* of his order in 1841 and 1842. In 1842, he was chosen a deputy; and, as he has always held republican opinions, he joined the opposition. On the fall of the monarchy of Louis Philippe, he was the first to oppose the institution of a regency under the Duchess of Orleans, and to urge the formation of a provisional government. He was Minister of Public Works under the Provisional Government, and, in that capacity, one of his principal acts was the establishment of the national workshops, so savagely attacked by Louis Blanc in his *Political Revelations*. Ab-

surd, however, as was the principle of these workshops, in which the State acted as contractor and the workmen as paid instruments, the institution, under the peculiar circumstances in which it arose, did much good, and to this M. de Lamartine bears emphatic testimony. "They were merely," he says, "an expedient for preserving order, a rude auxiliary summoned on the morrow of the revolution by the necessity of feeding the people, and not feeding them idle, in order to avoid the disorders of idleness. M. Marie organized them with skill, but without any useful result as regarded productive labour. He formed them into brigades; he gave them chiefs; he communicated to them a spirit of discipline and order. Instead of being a force at the mercy of socialists and insurrectionists, he, for the space of four months, made of them a prætorian band, inactive indeed, but at the disposal of the executive. Commanded, directed, sustained by chiefs who were in secret concert with the anti-socialist part of the Government, the workshops served until the appearance of the National Assembly, as a counterpoise to the sectarian operatives of the Luxembourg, and the seditious operatives of the clubs. They scandalized Paris by their numbers and the inutility of their labour; they more than once protected and saved Paris without its being conscious of it."

M. Marie was subsequently President of the Legislative Assembly, and afterwards Minister of Justice. Not having been re-elected deputy after the election of Louis Napoleon as President, he gave up political life and returned to the Bar, where he has since been engaged in a number of important cases. In 1857, he defended the editor of the *Memoirs of Marshal Marmont*, prosecuted by the heirs of Eugène Beauharnois, for defamation of that prince. M. Marie has always been distinguished not only for his abilities and profound knowledge of law, but also for his consistency and integrity of character. He belongs to that class of moralists and politicians known as *les Doctrinaires*, founded by the celebrated Royer-Collard, whose principles are thus described by M. Pinard:—"From the last days of the republic, in the midst

of our triumphs and disasters, when every faction sought to have a hand in forming what was to constitute the new society, certain grave, virtuous, self-confident men were to be seen who already formed a sect, and who, when the moment was come, would form a party. The *Doctrinaires* date from that period; they aspired to nothing less than to be the teachers of France. They pretended, with regard to institutions, to know better than she what she ought to love and maintain. They repudiated the doctrines of the eighteenth century, in whose name the revolution had been carried out. They required something else than the mere sovereignty of numbers, which recalled to their minds only abominable sacrifices, and before which the pride of their reason refused to bow. They demanded something else also than the mysteries of the ancient monarchy, which they had long since penetrated and condemned; mysteries under which were concealed too many abuses which their knowledge detected and which their honesty disowned. They even demanded something more than the British Constitution, a machine too complicated, composed of too many pieces,—a government the growth of the soil, of the climate, of the times, of the variety of races, of a thousand different accidents, in which pure reason was not sufficiently visible; which gives too great a scope to prejudices, to privileges, to injustice, and which had vainly commanded the admiration of Montesquieu, and the hope of Voltaire. They respected the law; they did not adore it; if, in their eyes, it represented justice, it was not justice herself; they degraded it from the rank in which the jurisconsults had placed it; they saw in it a bridle for our passions, a remedy for our misfortunes, nothing more; they sought to draw the rule of our actions from a higher source."

CHAPTER XII.

The Bar of the Nineteenth Century continued—MM. Lainé, Martignac, Berville, Trinier. Merilhou.

FEW advocates of the present century have been more distinguished by the sincerity and uprightness of their character, and the important part they have played in public life, than M. Lainé, born at Bordeaux in 1767. He was a moderate liberal in his views and opinions, and joined the Bar of Bordeaux when he had attained the ripe age of thirty. There, he soon rose to distinction, and occupied a position second to none, though the Bar of Bordeaux could then boast of such men as Ferrère and Ravez. After the downfall of Napoleon, M. Lainé raised his voice to recommend to the Government of the Restoration a policy of peace, liberty, and conciliation; and though he spoke to men intoxicated with success, and excited by the spirit of party, he had the rare courage to withstand the passions of those he loved and acted with, and to counsel moderation and forgiveness. Louis XVIII. was much attached to him, knowing that his devotion had nothing in it mean, fawning, or ambitious. As President of the Chamber, and as Minister, he was conspicuous for elevation of mind and for a certain pathetic and natural eloquence that was peculiar to himself. The following extracts from two of his political speeches may give some idea of the character of his oratory. The first is from a speech delivered in 1817, when he was Minister of the Interior, in favour of the Spanish refugees, to whom the more violent spirits on the right of the Chamber wished to refuse assistance. "They ask," he exclaimed, "whether there exists between France and other nations a treaty which obliges our Government to succour these unfor-

tunates? There does exist a treaty, anterior to all those which are to be found in the charters of diplomacy, engraved on all hearts, which was respected in all ages by all civilized nations. Let us not regret, in spite of our distress, to see a fund for the generosity which aids misfortune form part of the Budget. Thus, perchance, shall we sow the seeds of reconciliation among nations who have much to pardon each other." Our second extract is from a reply made in 1822 in answer to an attack of General Foy, and in defence of the Ministry of which M. Lainé had formed a part. "They speak to you often," he said, towards the close of his reply, "of the responsibility of ministers; but legislative assemblies and their members have also their responsibility, to a severe judge, the judge of history. History accuses the pretended popular orators of antiquity of having caused as many calamities as tyrannical governments, and perhaps she has scourged with greater severity turbulent orators than bad ministers. Let us at least deduce a lesson from this remembrance, and learn to mingle prudence and justice with the true liberty of debate. . . . . General Foy demands what the Ministry has done during the last five years for the interest and the dignity of France. . . . The Ministry found France occupied by the Allies; invaded on all sides; bayonets environed the capital; cannon were pointed at the palace of our King. Foreign powers put forward pretensions more than hostile, and what has since passed in an assembly where the liberty of speech exists, has shown you that the project of subduing France was not a chimera. Unquestionably, France would not have submitted to it, and it is not to the Ministry that I attribute the honour of having prevented the execution of that design, but it has assisted in removing the misfortunes which menaced us. The new map of France was already arranged. I have been permitted to see it. It was in the possession of a man who, by his influence, his efforts, his loyalty, has contributed to the abandonment of that fatal design. Such was the first act of the Ministry."

When President of the Chamber of Deputies, M. Lainé strove to correct the original sin of the restoration, by giving it a more popular and national character, but he strove in vain. He presided at the famous sitting of 11th March 1815, when all the Princes of the house of Bourbon came to swear fidelity to the Constitutional Charter in presence of Louis XVIII. He seems clearly to have seen wherein lay the weakness and defect of the Government. "It was time," he said, "that the nation should listen to the popular voice, and that that voice should no longer inspire distrust." As Minister of the Interior, he sought, with the assistance of some courageous and distinguished persons, to bring about such an alteration in the electoral laws as would place the destinies of France in the hands of the middle class, which would have been in all respects the best guarantee for well-regulated liberty and permanence of institutions; but he failed in his endeavour from want of tact and patience, and from insufficient knowledge of the state of parties.

In 1824, M. Lainé was raised to the Chamber of Peers. He quitted public life as poor as when he entered it, and went to spend his last days at a modest country house in the Landes of Bordeaux, which he had inherited from his father.

M. de Martignac—one of the most accomplished statesmen of the Restoration—was Minister under Charles X., as M. Lainé had been under Louis XVIII.; and had his voice been listened to by the obstinate and short-sighted monarch whom he served; had he consented, in accordance with his advice, to rule like a constitutional king, and give a real representative government to his people, the Revolution of 1830 might probably never have taken place. M. de Martignac was the son of an advocate, and was an advocate himself up to thirty-five years of age. Afterwards, he was magistrate and minister; and, in an important and perilous case, he again resumed the functions of advocate, and ultimately died an advocate—the last act of his public life being the defence of the princes he had loved and served against the laws of proscription. He possessed a remarkable versatility of character, which enabled

him to adapt himself naturally and easily to the various important positions in which he was placed. As a speaker he was one of the best that the Bar has produced,—simple, touching, and agreeable,—and these qualities were materially aided by the charms of his voice and manner, so that few could resist the fascination of his eloquence. "M. de Martignac," says Guizot, "has left in the minds of all who were acquainted with him, either in public or private life, whether friends or adversaries, a strong impression of esteem and good-will. His disposition was easy, amiable, and generous; his mind just, quick, and refined, at once calm and liberal; he was endowed with natural, persuasive, clear, and graceful eloquence; he pleased even those from whom he differed. I have heard M. Dupont de l'Eure whisper gently from his place, while listening to him, 'Be silent, siren!' In ordinary times, and under a well-settled constitutional system, he would have been an effective and popular minister; but either in word or act he had more seduction than authority, more charm than power. Faithful to his cause and his friends, he was unable to carry either into government or political debate that simple, fervent, and persevering energy, that insatiable desire and determination to succeed, which rises before obstacles and under defeats, and often controls wills without absolutely controverting opinions. On his own account, more honest and epicurean than ambitious, he held more to duty and pleasure than to power. Thus, although well received by the King and the Chambers, he neither exercised at the Tuileries nor at the Palais Bourbon the authority, nor even the influence, which his sound judgment and extraordinary talents ought to have given him."

M. de Martignac is one of the many eminent men that the city of Bordeaux has furnished to the magistracy, the ministry, and the Bar of France. As a young man he was fond of composing verses and vaudevilles, and during his residence in Paris mixed much in the gaiety and dissipation of that brilliant capital. But after he returned to his native city and joined the Bar of Bordeaux, his success was rapid, and

he became successively Advocate-General of the Royal Court at Bordeaux, *Procureur-Général* of that at Limoges, and, in 1822, member of the Chamber of Deputies. His true fame commences with his entrance into public life when he was nearly forty. In 1827 he was one of the first men in France. Minister of State, member of the Privy Council, and Director-General of Domains, and his character for integrity and ability stood so high in public estimation that all eyes were turned towards him as the most likely man to reconcile the quarrels of party, and to strike a fair balance between the claims of the sovereign and the demands of the people. In the beginning of 1828 he was at the head of the Ministry; and in that position sincerely and earnestly strove, during his short tenure of power, to give to the people a true representative government. But all his endeavours in this direction were thwarted by the King, who could not believe himself a true monarch while he reigned under the shadow of representative institutions, and who was blind to the coming storm of popular dissatisfaction that was soon to sweep his dynasty from the throne. The Polignac Ministry succeeded that of M. de Martignac, the patience of the people gave way, and the Revolution of 1830 was accomplished. That Ministry came into power in August 1829, and Martignac's removal from the helm of the State was made more easy by his appointment as Grand Cross of the Legion of Honour. By a strange fatality, not many months elapsed before M. de Martignac found himself called upon, in his capacity of advocate, to defend, before the Chamber of Peers, M. de Polignac and the other members of the cabinet which had driven him from power and precipitated the revolution. On that occasion, his abilities shone with the brightest lustre. Never had he made a nobler pleading. In the course of it he thus speaks of his own position:—"Twelve years removed by the pressure of public affairs from the noble profession of the Bar, of which there remain to me only remembrances and regrets, I tremble lest this unexpected task should prove above my strength. . . . I feel that the recollection of a powerless

attempt and of a misplaced confidence would weigh upon my heart like a remorse." Of M. de Polignac he says:—"That man whom you have already named, whom I shall have occasion to make you better acquainted with in the course of these melancholy discussions, is he who has placed his life and his reputation under the feeble safeguard of my eloquence; it is he who sits there at my side, who for a long time sat along with you, he whom you now term the accused, and who has desired that I should term him my client." To his old friend M. de Peyronnet—another of the accused—he thus refers: "I cannot pronounce the name of M. de Peyronnet without an emotion which you will easily comprehend. Born in the same town, in the same year, we have seen our childhood, our youth, and our riper age glide away in the midst of pleasures and pains. At College, at the Bar, in the Magistracy, in the Chambers, everywhere we have found ourselves together, and to-day, after having both experienced earthly greatness, we are still together; I, as formerly, lending to the accused the assistance of my voice, and he a captive, prosecuted, compelled to defend his menaced life and reputation."

But eloquent and able as was M. de Martignac's pleading for his political antagonists the Polignac Ministry, it was surpassed by the last speech which he delivered in defence of the Bourbon princes against the laws of proscription. The whole Chamber was moved by it, and loudly applauded the eloquent orator. In its closing sentence he seems to have had a forecast of his approaching death. "I have been unwilling," he said, "to appeal to passions or parties; it is a language which I would wish to forget, if I had ever learned it. . . . I cannot hope that my enfeebled voice will make itself often heard in the midst of the noise of the tempest, but I wish to be acquitted by my conscience of the evils which I was unable to prevent."

M. de Martignac died in April 1832, worn out by the fatigues and excitement of public life, in the fifty-fourth year of his age.

M. Berville also deserves a place among the eminent advo-

cates of the nineteenth century. He was born at Amiens, in 1788. He possessed graceful manners and a handsome person, together with a style of speaking clear, well arranged, and agreeable, though somewhat wanting in vigour, simplicity, and substance. He aimed at seducing and captivating his hearers rather than at compelling their conviction by the force of his arguments. His father was Secretary-General of the Provincial Administration before the Revolution and also under the Republic; Deputy during the Hundred Days; and subsequently justice of the peace at Charenton. He was a steady but moderate friend of the principles of the Revolution, and taught his son to be so also. M. Berville had a strong love for literature, the fine arts, and music, and wrote with much purity and finish of style. He was twenty-eight when he joined the Parisian Bar; and the causes in which he was chiefly engaged were of that description in which the public take a lively interest. In short, he was a political advocate almost from the beginning of his career. One of the cases in which he showed most professional skill, and a degree of boldness not common with one so moderate and self-controlled, was that of M. Achille Roche, the author of certain memoirs of a revolutionary tendency, published under the name of Levasseur, an obscure member of the Mountain during the Revolution, who had died poor, proscribed, and forgotten. Another case connected with the liberty of the press, in which he was also counsel for the defence, was that of M. de Senancourt, who had written a work entitled *Résumé des Traditions Religieuses*, in which our Lord was mentioned sometimes as "a young sage" (*jeune sage*), sometimes as "a respectable moralist" (*respectable moraliste*)—M. Renan is not quite so original as his admirers would have us believe. The author of this work was prosecuted before the Royal Court of Paris, in the beginning of 1828, having previously been condemned by the Correctional Tribunal of the Seine to nine months' imprisonment, and having appealed from that sentence. "Considering," said the judges of the inferior court, "that the work entitled *Résumé* contains throughout

the most serious outrages against the religion of the State and against other forms of Christian worship legally recognised in France; that these outrages principally consist in denying the revealed truths of Christianity, and also in denying in the most formal manner the divinity of Jesus Christ, by characterizing him sometimes as a young sage, sometimes as a respectable moralist, upon whom, after his death, had been conferred the attributes of an allegorical personage." M. Berville defended the appellant with the utmost freedom and plainness of speech. "Two opposite systems," he said, "have alternately ruled over the world, have alternately directed human opinion. The one founded upon authority, the other upon liberty. . . . Here are the consequences of the system of authority: the Inquisition, the Bastille, Saint Bartholomew, the dragonnades, the censorship. It was authority which, at Athens, presented the hemlock to Socrates, guilty of having taught the unity of God; which, in pagan Rome, delivered the first confessors of Christianity to wild beasts; which, in Catholic Florence, put Galileo in prison for having discovered the laws of nature and the order of the universe. There is another system, the child of enlightenment and of a sound philosophy, which rejects all constraint in matters of opinion; in it, power, the minister of toleration and of peace, does not descend from her lofty sphere to mingle with human disputes. She contents herself with restraining them within just limits; she does not judge, she moderates them; she protects peaceable, and she represses turbulent, opinions. Content with maintaining order in society, she leaves to truth the task of prevailing by her own might. 'Go,' she seems to say to her, 'go, daughter of heaven, force is not in me; it is in you; appear, and you will triumph. You need not human power to found your empire.'"

The conclusion is in the following terms:—"Lately one of our brethren, whose piety is well known to you, said to me in speaking of this process: 'If the sentence is confirmed, I expect to see the Inquisition established in France in three years.' He spoke truth; the judgment which I attack is

nothing but a judgment of the Inquisition. Gentlemen, our Parliaments, which you now represent, formerly drove the Inquisition from our country; you will not repudiate the inheritance of their wisdom."

M. Berville's eloquent defence was successful. Both the writer and publisher of the *Résumé* were acquitted.

If M. Berville did not always succeed in convincing the judges, he never failed to delight both them and the public by the grace of his manner and the tact and elegance of his speaking. He was appointed Advocate-General in 1830, and was shortly afterwards elected a deputy.

For twenty-five years M. Tripier was among the most successful and best employed advocates in France, although there was nothing brilliant in his pleadings, nothing attractive in his manner. But he possessed a clear, capacious intellect, a vigorous logic, a sufficient knowledge of law, and an indefatigable power of work. His style of speaking was keen, subtle, impressive, addressed solely to the reason, and rigorously avoiding all ornament and all appeals to the passions; and he had a considerable share in bringing about that change in the style of forensic oratory which has taken place during the last fifty years—a change which has rejected many of the rhetorical artifices formerly fashionable, and which has made him to be considered the best speaker who can state most simply, quickly, and naturally what the case requires. He retired from the Bar in 1823, when M. Berryer, to whom was delegated the duty of bidding him farewell in the name of the Bar, paid the following tribute to his many merits:—"In that difficult case, full of minute details, the last which this great advocate will plead before you, he has stated the questions which you are to decide with that clearness of view, that keen penetration, that powerful logic, which no one has surpassed. If, in our judicial rivalries, he has sometimes encountered successful antagonists, he has always known how to show himself our master and our model; it is a homage which we will not cease to pay him; and at this moment, when the Bar regrets the resolution which he has

taken no more to make his voice heard, it appears to me that, after having enjoyed the benefits of his example, I fulfil a duty when I yield to the desire of acknowledging that long and famous career, whose memory will be preserved by us, that high and glorious reputation which will always remain attached to his name."

M. Tripier died at Paris, in April 1840.

The name of M. Merilhou is identified with many of the most important political cases which occurred during the era of the Restoration, several of which are full of a deep and often melancholy interest. His own views were strongly opposed to the existing Government. Born towards the commencement of the great Revolution, he was imbued with the ideas which it had contributed to develop and spread abroad. He had seen and been dazzled by the glories of the Empire —the splendour of its victories, the triumphs of its legislation, and he viewed the restoration of the Bourbons with jealousy and dislike. He was an accomplished writer and an excellent orator, who could at once convince and charm; but he was also a keen partisan, and did not hesitate to state and support his opinions with the utmost boldness. He belonged to an ancient and honourable family, and was born at Montignac, in 1788. During the Hundred Days; he was appointed substitute to the *Procureur-Général;* but his having thus held office during the Empire, pointed him out to the hostility of the Government of the Restoration, by which he was removed from office. He then returned to the Bar, where he was applied to as political advocate by all who had to complain of the Government in power, or to defend themselves against its attacks. Not long after the Restoration he defended the authors of the *Censeur Européen*, who were prosecuted for the publication of the manuscript of *St. Helena*, a work of which 40,000 copies were sold throughout Europe, and which was attributed to Napoleon, but which was in reality the production of a clever Swiss writer—M. Châteauvieux of Geneva. In April 1818, he succeeded in procuring the acquittal of M. Brissot-Thivars, mixed up as author and bookseller in many of

the controversies of the period, and who was prosecuted, under the law of November 1815, for the publication of a pamphlet on the subject of the exiles. He was also the advocate of the young and intrepid Bories, at a time when the reactionary policy of the French Government was strenuously and pitilessly exerted to crush the slightest manifestation of liberalism; when, in the course of a single year, and for political offences, Sirjean was executed at Tours, Vallée at Toulon, Caron at Colmar, Maillard at Bayonne, Berton at Poitiers, Bories, Raoulx, Goubin, and Pommier at Paris. After the Révolution of 1830, M. Merilhou's part was altogether changed. Instead of an opponent, he became a defender and a member of the Government, as Secretary-General of the Minister of Justice, as Minister of Public Instruction, and as Chancellor. In 1832, he was made Councillor in the Court of Cassation, and was shortly afterwards created a Peer of France. He died in 1855.

CHAPTER XIII.

The Bar of the Nineteenth Century continued—Military Advocates—MM. Manuel, Romiguières, Michel (De Bourges).

In our own country, several distinguished advocates commenced their career in the army or the navy, and afterwards exchanged the sword for the gown. Lord Erskine, for example, the most eloquent voice at the English Bar, began life in the navy, where he served for four years, and after leaving it, served for a still longer period in the army; Lord Chelmsford, when a youth, was in the navy; and an eminent judge in the Court of Session in Scotland, during the present century, was in early life a cornet of dragoons. At the French Bar, we also find not a few names of celebrated advocates who bore the sword before they assumed the gown. We have already mentioned M. Hennequin's military experience, and his successful defence of some unfortunate prisoners before a military court; and we shall now glance at the career of another advocate, a soldier, like Hennequin, in early life, but whose subsequent years were much more chequered and stormy, and far less brightened by success than those of that accomplished and popular pleader. M. Manuel's was indeed a strange and varied existence. In youth a brave and active soldier, and afterwards among the most eminent advocates at the Bar of Aix, he was subsequently somewhat harshly refused admission to the Parisian Bar, and was unjustly expelled from the Chamber of Deputies by a political cabal. Yet he long enjoyed an immense reputation and influence among the liberals of France; orations were pronounced over his tomb by MM. Lafayette, Schönen, and Lafitte; and Béranger consecrated to him the line—

"Bras, tête, et cœur, tout était peuple en lui."

Jacques-Antoine-Manuel, afterwards one of the most celebrated orators under the Restoration, was born at Barcelonette, in December 1775. While yet a child, he was remarkable for the rapidity and ease with which he mastered his studies, and before he was fourteen he had nearly completed a second year of philosophy. As a young man he was seized with the military ardour then almost universal in France, and joined a battalion of volunteers attached to the army of Italy, where his superior education and good conduct speedily raised him to the rank of sous-lieutenant. He remained some years in the army, was present at several engagements, received more than one wound, and rose to the rank of captain; but he resigned his commission, on the conclusion of the peace of Campo Formio, and, after a short course of study, joined the Bar of Aix, where he soon rendered himself conspicuous by his readiness and eloquence. His abilities attracted the attention of the clever and unscrupulous Fouché, and his entrance into political life began with his election as representative to the Chamber of the Hundred Days, where he showed himself, as if he had foreseen the future, strongly anti-Buonapartist, and where he soon acquired a decided ascendency by his vigorous, prompt, and adroit eloquence. He was appointed a member of the Commission on the Constitution in June 1815, and strongly opposed the return of the Bourbons; but his political functions were terminated for the time, by the arrival of the allied armies in Paris, and the consequent dissolution of the Provisional Government, which consigned him to the obscurity of private life. He did not, however, return to Aix, but fixed his residence in Paris, and applied to Bonnet, then *bâtonnier*, to have his name inscribed on the roll of the Parisian Bar. Bonnet made inquiries at Aix, and on receiving a report from the Bar of that city, indefinitely adjourned consideration of Manuel's application; but the latter opened a chamber for consultations in Paris, and succeeded in obtaining a fair share of business. It was at this time that he drew up a memorial for Marshal Masséna, from information furnished by him and by Marshal Soult.

The elections of 1817 restored Manuel to political life, two Departments, Finisterre and La Vendée, simultaneously choosing him as their representative. He selected the former. In the Chamber he was, as before, a keen opponent of the Bourbons. His eloquence, somewhat flowery and declamatory, was, for a time, greatly admired, especially as there was at first a want of good speakers trained to political debates; but his oratorical reputation gradually began to decline, and more simple, logical, and sincere speakers were preferred to him. Benjamin Constant was more subtle and delicate, Casimir Perier more solid, Royer-Collard more profound, General Foy more eloquent. Manuel was inferior to all of them, though he was ready, fluent, and energetic, and had an agreeable and sonorous voice.

In May 1820, he proposed an address to the King, setting forth the alliance of his ministers with a faction hostile to the interests of the nation, and pointing out the dangers to which the supporters of royalty exposed the monarchy by advocating the abolition of constitutional institutions. He especially attacked what he termed the confiscation of individual liberty, the law of provisional censure, and the change in the law of elections. This address was, however, rejected, though not uncalled for by the character and conduct of the ministry, and the warnings which it was calculated to convey were slighted.

So far Manuel was in the right, and was acting strictly in conformity with his duties as a representative of the people. But, unfortunately, he was not content with making use of the constitutional means of redress that were open to him; and there can be little doubt that, about this time, he, along with Lafayette, Benjamin Constant, and Voyer d'Argenson, was actively engaged in fomenting and encouraging conspiracies against the Government. The ministry, indeed, had in their hands proofs of their complicity in the affair of Saumur; but they did not judge it advisable to impeach men so popular and influential, and preferred making an example of the subordinate agents, such as Berton, Caffe, and others. The

right of the Chamber, however, entertained a strong feeling of hostility towards Manuel on account of the bitterness of his language, and the contempt with which he repaid their enmity. They therefore spared no exertions to prevent his return at the elections of 1822, but all their efforts were unsuccessful; and they then determined to devise some plan, or seize some pretext, to procure his exclusion from the Chamber. They found one during the discussion on the war in Spain; a war utterly unjustifiable and unprincipled, and undertaken to stifle liberty and perpetuate despotism. It was severely criticised by Manuel, who declared in the course of his speech, that if anything could endanger the life of Ferdinand VII., it was just such a foreign invasion as that called forth by him. "Similar circumstances," he exclaimed, "caused the death of Louis XVI.; it was after the entrance of the Prussians into Champagne, it was while Prussia and Austria still hung upon our frontiers, and menaced the independence of our territory, it was then that revolutionary France, thinking it her duty to bestir herself with fresh *energy*," . . . This last word, simple and innocent though it was, produced a perfect tumult in the house, and Manuel was accused of preaching regicide. He remained, however, calm and imperturbable in the midst of the storm, and demanded permission to finish his sentence and explain his meaning. But this was refused; and his voice and that of the President, Ravez, were drowned in the tumult, which was only appeased by Forbin-des-Issarts making a formal accusation of inciting to regicide against Manuel, and demanding his exclusion from the Chamber. The sitting was broken up in the midst of the utmost disorder.

On the following day, Labourdonnaye supported the proposition of Forbin-des-Issarts, and many of the extreme right even went the length of advocating the condemnation of Manuel without hearing him in his own defence. But at length the matter was referred to a commission, and the 3d of March was fixed for the debate, M. de Villèle declaring that the ministry agreed with the right in their project of exclusion. On the 3d, the right and part of the centre formed a com-

pact majority determined, at all hazards, to exclude Manuel, who, although he made an admirable defence, and had justice and reason on his side, fell a victim to the rage of party. The extreme measure of excluding a deputy for such a trifling cause was entirely unprecedented and unjustifiable, and was evidently the first step towards enabling the Government to stifle inconvenient voices and violently change majorities. It was as illegal as any of the measures by which the Convention, in its worst days, had sought to purge itself into a perfect revolutionary tribunal. Manuel showed in the clearest manner that he had neither in word nor in intention recommended regicide. "But you are determined," he exclaimed, "to remove me from the tribune; that is your actuating motive. Well then, pronounce your verdict, I shall not seek to avoid it. I know that the passions must run their course. Your conduct is regulated by that of your predecessors and your models. All that has been done by them you will do. The same elements must produce the same effects." On the vote being taken, the majority were in favour of his exclusion.

But the liberal party were determined to render it evident to all that this vote was a direct attack upon parliamentary independence and inviolability; and with this view it was arranged that Manuel should appear next day in his accustomed place, as if no vote of exclusion had been passed. He accordingly did so. The President requested him to retire. Manuel declared that he would only yield to force. The President then suspended the sitting for an hour; but, at the close of the hour, Manuel still remained immoveable. Then the chief usher of the Chamber, followed by eight of his subordinates, entered, and read an order signed by the President, commanding Manuel to leave the house, and not to return during the continuance of the session. But all was in vain. Manuel remained firm. Next a picket of the National Guard was called in, and the sergeant who commanded it advanced with visible hesitation and reluctance to arrest him. Lafayette seized the moment and exclaimed, "What! is it the National Guard who would attack the National Representa-

tives?" Upon which the sergeant and his picket formally refused to lay hands on Manuel, amidst loud cheers from the left of the Chamber. A detachment of gendarmerie was then sent for, and Colonel Foucault, after in vain reiterating the summons to Manuel to leave the house, called out to his men, "Soldiers! seize M. Manuel." Then at last Manuel answered, "It is enough, sir, I am ready to follow you," and so left the Chamber accompanied *en masse* by the left, who did not appear again in their places during the rest of the session. Though defeated in the vote, they had attained their object; exclusion had become expulsion.

The expulsion of Manuel from the Chamber was one of the gravest blunders committed by the Government of the Restoration. It was not merely an attack upon parliamentary inviolability, it was one of those acts that confer neither present advantage nor future benefit on those who perpetrate them. It left hatred and distrust rankling in the breast of the liberal party, and had no slight share in contributing to the Revolution of 1830. The injustice of which Manuel was thus made the victim, had the effect of somewhat restoring his popularity, which had rather begun to decline. A deputation from the youth of France waited upon him to pay him their respects, and he had the honour of being celebrated in the verses of Béranger. He re-opened his chamber for consultations in Paris, but his failing health soon obliged him to give up business. His strength was exhausted by the strifes and excitement of the tribune, by the pursuit of pleasure and the love of play, to which he was much addicted, and he died on the 27th August 1827. Funeral orations were pronounced over his grave by the chiefs of the liberal party, and a few years after his death a monument was erected to his memory.

M. Romiguières, who joined the Bar of Toulouse in 1802, and who ranks among the most eloquent and successful pleaders of his time, was another soldier-advocate. He served as a volunteer in the army of the Pyrenees in 1793, and was elected captain of artillery by the choice of his comrades, ac-

cording to the military usages of the period. The peace with Spain, however, put a stop to his military career; and, on leaving the army, he became a contributor to the journals of Toulouse, maintaining opinions adverse to those of the extreme republican party. He was among the proscribed under the Directory, and was obliged to become a fugitive from France for about eighteen months. He had been soldier, political writer, and exile before he joined the Bar; and had thus acquired an experience of life calculated to be useful to him in his future career, especially when combined with the lively intelligence, remarkable memory, imperturbable self-possession, handsome person, and agreeable voice, with which he was endowed. Accordingly, no long time elapsed between his appearance at the Bar and his rise to be one of the leading advocates in the south of France. He was elected deputy towards the close of the Empire, and was chosen by the Chamber of the Hundred Days to draw up the manifesto which terminated their short sitting. That document, which was unanimously approved of by the Chamber, stipulates for the liberty of the citizens, equality of civil and political rights, the freedom of the press, responsibility of ministers, trial by jury, etc. On the restoration, M. Romiguières found himself again compelled to fly from France, and he did not return to the Bar of Toulouse until the autumn of 1816. Thereafter, he was much engaged as counsel for the defence in a number of important trials—such as that of Bastide for the murder of Fualdes; that of Carrel—afterwards the brilliant journalist—for bearing arms against France; and that of the author of *Convoi du bon Pasteur* for an attack upon the character and conduct of the Archbishop of Toulouse. In the last-named case, the skill and eloquence of his pleading were universally admired. Religious dissensions were then rife; and the spiritual power, supported and encouraged by the highest authority, was endeavouring to encroach on the province of the temporal. In concluding his speech on this occasion, M. Romiguières pronounced the following bold sentences, which were hailed with loud applause by the audience:

—"We desire in our King freedom from all external domination, and dependence only on the Charter . . . We desire in our clergy principles which do not subject the state to religion, when, in the eyes of the civil and political law, religion forms only a part of our institutions; especially we desire that a bishop should not be permitted to instigate the counter-revolution in his charges and pastoral letters, and to insult the most sacred of authorities, the authority of *res judicata*. We do not desire the Jesuits—shades of the last of the Valois."

After the Revolution of 1830, M. Romiguières was appointed Councillor in the Court of Cassation, and was created a Peer of France.

A third military advocate, who attained to considerable eminence, was M. Michel (de Bourges), who, when a young man, was a colonel of artillery in the Parisian National Guard, and assisted in bringing about the Revolution of 1830. At the Bar he made himself noticed as a powerful logician and animated debater, and was remarkable for an occasional brusqueness, almost vulgarity of speech, which transgressed against the conventional usages of the profession. His father had been assassinated in the royalist reactions of the south, and he himself had been successively clerk, soldier, and teacher before he came to the Bar, so that he had a large experience of the difficulties and trials of life. His progress, however, was rapid; for he was one of those whom difficulties stimulate rather than discourage, and he soon succeeded in making a place for himself. In 1833, he was engaged in a case in which both his peculiarities and abilities were prominently developed. Several pupils of the Polytechnic School were implicated in the matter, but were acquitted. M. Michel, however, and two other advocates, had to answer to the application of the public prosecutor, who demanded that severe disciplinary pains should be put in force against them. One of them had spoken; and when it came to M. Michel's turn to speak, he rose trembling, and exclaimed,—"I perspire, but it is not from shame, but from rage and indignation. You may

condemn me; the Advocate-General will never make me either a prisoner or a guilty person. I am full of respect for the magistracy, for without it the law is only a barren advantage. The magistracy is the living law; but there is something that I still more respect—it is the truth. As a man I seek it, as a citizen I spread it abroad, as an advocate it is my mission to insure its triumph.

"Is it indeed so? Are the advocates the slaves of the Crown Council? Know us better; it is possible that you may suspend us . . . all is possible in these unhappy times; but you will never reduce me to destitution: and if I ever applied for support to those whose lives or honour I have preserved, I should be yet richer than the King's Counsel, in spite of the munificence of power. Mirabeau, pleading before the Parliament of Provence, said to his judges,—'You will condemn me, doubtless, but the day of truth shall shine forth, and what is impure shall be purified.' Suspend me then; say that my name shall be erased from the roll; but say also that that same day I had travelled sixty miles to act as the defender of twenty-seven young men, and that that same day they were acquitted. That remembrance I shall bequeath to my children; that inheritance will be well worth any other. I must at least entreat you for a day. Yesterday I could not have lent the assistance of my voice to that of D'Argenson, who also only lives for the people, with whom, whatever may happen, I shall never cease to sympathize, and whose rights I shall never cease to defend. Judges! the day of justice shall arise for all, for us, for you also, and it is therefore I hope that you will do your duty."

M. Pinard, from whom we borrow these details, states that at the first word of this pleading (*Je sue*) the judges were stupefied, and the audience rose to their feet, while the jury and the prisoners remained nailed to their places with astonishment, in the midst of which M. Michel, pale with rage, but yet self-controlled, proceeded with his singular, and, in the end, successful address.

CHAPTER XIV.

The Bar of the Nineteenth Century continued—MM. Ferrère, Sénart, Barthe, Bethmont, Delangle, Garnier-Pagès, Paillet, Mathieu, Ledru-Rollin.

THE name of M. Ferrère is among the most eminent belonging to the Bar of Bordeaux, which, from the days of Vergniaud to those of M. de Martignac, has been conspicuous for the ability and eloquence of its advocates. He was born at Tarbes, in October 1767; and as a youth, while particularly applying himself to the study of law, he did not neglect the cultivation of literature, languages, poetry, and science. He joined the Bar of Bordeaux in 1789. As a politician, he utterly disapproved of the extremities to which the revolution had been carried; and yet he was no admirer of the empire, though in some respects he acknowledged its claims to the gratitude of France. He was a great book-collector. Books were his only luxury, and the sole fortune which he left, after twenty years passed at the head of the Bar of Bordeaux, was a splendid library. He never kept any account of his fees, but threw into a chest, or among his shirts, the money which he received. Like M. Peyronnet and M. de Martignac, both also belonging to the Bar of Bordeaux, he was fond of cultivating the Muses, and wrote a number of trifling verses. But his true glory and true strength were seen at the Bar, where he shone above all his competitors, in spite of his slow speech, his awkward gestures, and his inexpressive countenance. His pleadings are original, powerful, eloquent, and have the rare merit of bearing to be read over. As a specimen, we may give an extract from one of them, arising out of the following circumstances: A husband accused of the murder of his wife had been acquitted by the verdict of a jury,

but a memorial had been published of which he demanded the suppression. This was opposed by M. Ferrère in eloquent and dramatic, but somewhat exaggerated terms, which at present would be accounted scarcely admissible. "No, no," he exclaimed, "that memorial shall not be suppressed. It shall remain to appal the future by the recital of such attempts, and to prevent their recurrence. No; M. Roy shall not be declared calumniator for having discharged the most sacred of duties; for having detailed the sufferings of a mother deprived by a murder of her only child. His complaint shall not be stifled. What do I say? It ought not to be; it is that of a mother, and heaven, yes, heaven itself takes care to give brilliancy and energy to such accents. She will make her melancholy voice heard on high, that voice of a mother whom nothing can console, because her child is no more. She will pursue you incessantly, exclaiming, 'What have you done with my daughter, your wife? What have you done with her whom I intrusted to you to cherish and protect? She has perished, do you say? But to whom does she owe her death, who has struck the blow, who has followed the dictates of revenge? Ah! wretch, what have you done with your wife? The stone which had drunk her blood was yet wet, and your eye was tearless, your heart without regret, your hand stretched out to seize her spoils. The grass had not yet grown green on her tomb when your revolting orgies began to disturb her sleep of death. Weep, if indeed heaven has not denied you tears; weep, but beware of saying that you have been calumniated. Ah! wretch, what have you done with your wife?'"

M. Sénart is another of the great men who, during the present century, have rendered important services to their country, both as advocates and as statesmen. He was born at Rouen in 1801, joined the Bar in that city, rapidly acquired a high professional reputation, and rose to be *Procureur-Général* in his native town, but resigned that office upon being appointed a deputy to the Legislative Chamber. Although a liberal in politics, he had no great belief in the possibility of

founding a permanent republic in France, yet he faithfully served the Provisional Government; and first as Vice-President and afterwards as President of the National Assembly, displayed remarkable courtesy, tact, and firmness, in regulating the tumultuous debates of that heterogeneous and unruly convention. He associated himself with General Cavaignac in asserting the reign of law and order, and in putting down the desperate insurrection which broke out in Paris in June 1848; and at its sitting of 29th June, the National Assembly declared that both were entitled to the thanks and gratitude of their country. When General Cavaignac became the head of the Executive, he hastened to intrust M. Sénart with the Ministry of the Interior, and on him devolved the arduous task of reorganizing the central administration, as well as that of the departments, in so far as regarded the police and the municipalities. When, however, General Cavaignac judged it advisable to ally himself with the former chiefs of the opposition, M. Sénart, with rare disinterestedness, not only resigned the important office which he filled, but recommended the policy of the General from the tribune. M. Sénart was not a brilliant parliamentary orator. His speeches were generally short and unadorned. But he possessed consummate parliamentary tact, and it was this that enabled him to take such a prominent and useful part, as President of the Assembly, during the terrible three days of June. He belongs to the party of moderate republicans, whose political ideas, although they may not be altogether well defined and practicable, do not, like those of the extreme republicans, run counter to the well-being of society and the progress of civilisation. Although a liberal, he had too much good sense to be carried away by those chimeras which have done so much harm in France, and his constant aim was to reconcile liberty with good order and stability—a problem which the French, even after all their *émeutes*, revolutions, and constitutions, all their experience within the last half century in republicanism, monarchy, and imperialism, seem still to be utterly incapable of solving. M. Sénart has always been a consistent opponent

of that mad passion for centralization, which is one of the scourges of France, which cannot be satisfied without ordering, regulating, providing for everything, which destroys self-government and withers political life, and which tends to favour and encourage the encroachments of the central power upon the liberty of the citizen.

As an advocate, M. Sénart's talents are great and indisputable. He is an admirable lawyer, and thoroughly conversant with all the forms of procedure. His judgment is penetrating, his resources inexhaustible, his speech fluent and easy, though often negligent in point of style. He never knows when he is beaten, and has a wonderful knack, of appropriating the arguments directed against him to his own use, and turning them against his antagonist. During a hearing, his good-humour and coolness are imperturbable. He has a tall and imposing figure, a fine head and expressive countenance, with greyish-blue eyes sparkling with good-humour and vivacity.

Félix Barthe, born at Narbonne in 1795 and admitted to the Parisian Bar in 1817, distinguished himself, both at the Bar and in the political arena, by his vigorous talents and advanced liberal opinions. When a young man he belonged to the secret society of the Carbonari, and was always ready to place his eminent abilities at the service of those holding similar views with himself, and who were unfortunate enough to incur the displeasure of the Government. In many such cases he proved himself a brilliant and fearless defender; and in that of M. Nicolas Kœchlin, was suspended from the exercise of his functions for a month on account of the warmth of the expressions he had used in his speech for the defence. He was opposed to the Government of the Restoration, and took an active share in bringing about the revolution which placed Louis Philippe on the throne. He left the Bar at the height of his reputation, attained at the comparatively early age of thirty-five, and was afterwards minister, peer, senator, and judge. No one was more effective in addressing a jury. There was nothing exaggerated, nothing artificial, nothing

professional about his eloquence; all was graceful, easy, and natural. In figure he was short but strongly built, his countenance was singularly expressive, and his voice one of the finest that could anywhere be heard—full of power and harmony. In 1830, he was made Minister of Public Instruction, and formed part of the administration of which Casimir-Perier was the head. During his tenure of office he effected a partial reform of the Penal Code. Louis Philippe, to whom Barthe had done good service under the difficulties of the Lafitte administration, had a high opinion of his abilities and great confidence in him. "Very few advocates," he said one day to M. Guizot, "understand the conditions of Government; Barthe has mastered them. He is not a deserter, but a convert: he has seen the light." In 1834, he was created First President of the Court of Audit and elevated to a seat in the Upper Chamber, of which he was secretary in 1837, when he joined the Molé Administration as Minister of Justice. The success of the coalition of 1839, however, threw him out of office, and he returned to his post as President of the Audit Office, where he continued until the Revolution of 1848 removed him. He was reinstated in 1849, and in 1852 was made a senator. He was also Grand Cross of the Legion of Honour. He died in the beginning of 1863, universally respected and regretted. He wrote a book entitled *Discours et Opinions de Mirabeau, avec une Notice Historique*, 2 vols. 8vo, and several other works on law and politics.

M. Bethmont, born in Paris in 1804, and admitted to the Bar in 1827, is another great advocate, who has not only shone in his own profession, but has also repeatedly filled high offices in the State with credit to himself and honour to his country. He was engaged as counsel for the defence in many of the chief political causes that followed the Revolution of 1830, especially in those connected with the liberty of the press. He was sent to the Chamber of Deputies in 1842, and from that time until 1846 was an active and busy member, taking a leading part in all matters connected with the laws of patents, pensions, police, irrigation, railways, etc. He voted

against the Pritchard indemnity; and, in conjunction with Odillon-Barrot, attacked the system of electoral corruption and the increasing number of government functionaries who had seats in the Chamber. In 1848, no fewer than three departments chose him as their representative. He filled the posts of Minister of Agriculture and of Commerce, and afterwards that of Minister of Justice; and, in 1854 and 1855, was chosen *bâtonnier* of the order of advocates. He also held the high office of President of the Council of State. His death took place in March 1860. The following letter to his son, concerning the famous attempt of Orsini against the life of the French Emperor, will be read with interest, and will convey a good idea of the calm, wise, benevolent character of the writer:—"I have attended officially at the interrogatories in the affair of the criminal attempt. That judicial scene will remain long impressed upon my memory. Orsini answered with a calmness quite remarkable, for it was true calmness, free from boasting and weakness. The tone was measured, the language select, without pretension. Sincerity was evident in all that concerned himself, and reticence or evasion not less apparent when we wished to make him speak about the others. For a man of his stamp of courage, of his capacity of intellect, of his personal abnegation, punishment has commenced at the sitting of the court, where he has seen the miserable efforts of Pieri, his accomplice, to save his forfeited life, the calculations and the weakness of Gomez and of Rudio. Yes, my dear child, there are great lessons in these detestable acts. I cannot deny that Orsini seems to have had the love of his country for his only motive. He had no hatred against the Emperor; he had never even seen him. He had wished, by killing him, to destroy an obstacle, and prepare the destiny of Italy. But see what rashness in that design! to what a hazard he confides a simple hope! A bomb will cause the death of the Emperor. France will be in revolution. After France, Italy with the whole of Europe. What risks in that which he hopes! what horrors in all that he dares! Alone, he condemns, he executes the Emperor. In

the execution he combines with men almost unknown to him, he makes them his associates, he sacrifices them as he sacrifices himself. He cares nothing for the lives necessarily immolated by the agency of his infernal machines. . . . Well, such is the seduction of great courage, such is the influence which firmness in the face of death exercises, that that man has affected all who saw him die; I say who saw him die, for he died minute by minute during that sitting of the court. He said to ——, when he showed his sympathy for his sad fate and his calmness in the face of death: 'What would you have? it is a little sooner; a little later, it would not be worth sympathizing with.' He shows a constancy truly worthy of a better cause. I have his image before my eyes, and I cannot remove it. The kind of interest which he inspires is strange and painful. One yields to it, and one's conscience regrets it. Let us not be astonished at the seduction which powerful natures exercise, but let us gather from studying them a sense of the danger which they run. Let us learn, learn my child, never to suffer yourself to be dazzled or subjugated by them. There is a sure way of preserving our self-command and of guarding against the danger; it is to examine the means which they use, and to be sure of the lawfulness of their work. Orsini has dreamed of the independence of his country. I believe it, because he says so, and because I perceive no other motive which could make him act. But he has also wished the death of the Emperor; he has not been arrested in his career by the certainty of, at the same time, striking the Empress, their servants, their guards, the persons whom chance brought on the scene. . . . When I meditate upon the prodigious distortions of the human mind, I am confounded at the disorders, the madness, the pride, the contempt for human life, that I find therein. I am confounded and affrighted, for the number of those is great, who, in such an attempt, behold only the devotion and the courage, and who are led to elevate its author to the glory of the martyr."

Claude Alphonse Delangle, born in 1797, and afterwards

an eminent member of the Bar of Paris, has filled a number of high judicial and ministerial appointments, both under Louis Philippe and under the existing imperial *régime*. He was Advocate-General in the Court of Cassation from 1840 to 1846, and *Procureur-Général* of the Royal Court in 1847, in which capacity he conducted the criminal prosecution in the famous case of the Duc de Praslin. The Provisional Government deprived Delangle of his offices, and he then returned to the Bar, and attached himself to the political party of the Prince President. He held the office of *bâtonnier* in 1836 and 1837. On the present Emperor's accession to power, Delangle's merits and services were promptly recognised and rewarded. In December 1852, he was appointed First President of the Imperial Court; in 1858, he was made Minister of the Interior; in 1859, Minister of Justice; and in 1863, Vice-President of the Senate. He is the author of a work entitled *Traité sur les Sociétés Commerciales*, in 2 vols. 8vo.

Louis Garnier-Pagès, who was born in Paris in 1801, and died there in 1851, is better known as a statesman than as an advocate. In early youth he had a hard struggle against poverty, having no patrimony to maintain him and no connexions to push him on in the world. In 1822, he succeeded in obtaining a situation as bookkeeper in a commercial establishment in Paris at the modest salary of £40 a year, and his circumstances from that time began to brighten, so that he was able to devote some attention to the study of law, and was in due time admitted to the Bar, where he made a promising *début*. But he was more ambitious of distinguishing himself as a politician than as a barrister; and, early in his career, he took a lively interest in the constitutional questions that were agitating French society, and was an active member of the association entitled "*Aide-toi, le ciel t'aidera.*" In politics he was an ardent liberal, though opposed to revolution; and, from the beginning of his political life, his conduct showed that he had crossed the narrow border-land that divides liberalism from republicanism. He was a thorough republican;

but also a clear-headed, practical man, not liable to be carried away by political utopias or unreflecting enthusiasm, and he seems always to have had before him the principle expressed in a letter written to one of his political associates in 1840,—"*Ne perdez pas le positif, pour courir après l'idéal.*" He was actively engaged in the Revolution of 1830; and in 1831 was elected a deputy, and voted with the extreme left. He was not fond of taking a part in the discussion of general questions, but showed a singular aptitude for the arrangement and management of details. His influence and business talents were speedily felt in the Chamber; and, in a comparatively short space of time, he became the chief of the radical opposition. In 1832, he particularly distinguished himself on being dared by M. Jollivet to enter the tribune and give utterance to his views upon the meaning of the terms, "sovereignty of the people." He accepted the challenge, and stated his political creed on the subject with a clearness and force of argument that made the speech then delivered the received programme of the radical opposition down to 1848. M. Garnier-Pagès was particularly strong on financial questions, especially on those connected with the national revenue. During the Legislative session of 1839, he pronounced the speeches that have most contributed to his fame and popularity in France; and, in the reform movements then inaugurated, he largely assisted. But ardent republican as he was, he at the same time showed himself eminently practical and clear-sighted, and decidedly preferred the gradual improvement of the representative system to exposing the country to the shock and dangers of a revolution. After the fall of Louis Philippe, M. Garnier-Pagès was offered the post of Minister of Finance under the Provisional Government, which it required great moral courage to accept, as the financial position was so bad that his predecessor, M. Goudchaux, had tendered his resignation, and on the majority of the Provisional Government declining to accept it, had declared that he would kill himself within two hours if they persisted in their refusal. During his brief tenure of office, M. Garnier-Pagès effected some useful reforms,

and manfully met the difficulties and perils with which he was surrounded. His untimely death, from lung disease, in 1851, was lamented by men and journals of all shades of political opinion, and full justice was done to the force of his talents, the sincerity of his views, and the amiability of his private character. "That he was a sincere republican," says M. Louis Blanc, "cannot be doubted. But he belonged to that class of republicans who, mistaking the means for the end, do not see that the true and ultimate object to be accomplished through a republic is social reform. This blindness to the object to be aimed at could not fail to have a mischievous influence upon the course he pursued. But whoever noticed the physical characteristics of the man, the sickly appearance of his face, in contrast with the juvenile style of his locks, curling to his shoulders; his frail lank figure, his jerking movements, indicative of a highly excitable temperament, would never have anticipated the earnestness of purpose and the steady activity which, in carrying out what he undertook, he actually displayed."

M. Paillet—whose brilliant career at the Bar and its sad but glorious close are still vividly remembered in the Palace—was one of the ablest advocates of the nineteenth century. He was born at Soissons, in 1796, and joined the Parisian Bar in 1825, where he very soon acquired a high reputation by his conduct of the defence in the case of Papavoine, which excited an immense sensation in Paris at the time. On the 10th October 1824, a woman walking with her two little children in the wood of Vincennes, was met by Papavoine, who cut the throats of the two infants under the very eyes of their mother. For this crime he was brought to trial in February 1825, and was defended by Paillet, who was convinced that this horrible and unaccountable murder was the result of madness. He failed indeed in convincing the jury of this, and the murderer was condemned, but he showed such abilities in the course of the trial that he attracted the notice of Bellart, the *Procureur-Général*, who asked him to dine with him next day, along with several of the leading members of the Bar, and congratulated

him in the warmest manner on the talents he had displayed. This early triumph was the forerunner of a successful career, and Paillet rapidly became one of the chiefs and ornaments of the Bar. He had not only the happiness of being admired and sought after for his acquirements as a lawyer and his abilities as a pleader, but that also of being generally esteemed and beloved for the sincerity and amiability of his character. He died on the field of honour, in November 1855, in the midst of a pleading before the First Chamber of the Civil Tribunal of the Seine. His native town of Soissons, where he practised for some time before coming to Paris, has erected a monument to his memory, an honour never before paid to any advocate.

M. Mathieu has held a foremost place at the French Bar for the last twelve or fourteen years. His strong will, great abilities, and indomitable perseverance have raised him to the high position he occupies, in spite of the poverty and want of connexion which made his early days a constant struggle. He was born in 1814, in a small village in the department of Marne. His father was a poor agriculturist, little able to afford his son the means of following out a liberal career, but he was so struck with the promising disposition and aptitude for learning which the boy exhibited, that he made every sacrifice to obtain for him the means of prosecuting his studies. The young Mathieu was placed in the College of Épernay, where he finished his course with the most brilliant success, and in 1837 was admitted to the ranks of the Parisian Bar. At that time both his parents were dead, he had no friends in Paris, and only a very slender patrimony to support him till better days should come; so that he had to wage a hard fight against poverty and neglect before he won his way to independence. His industry and abilities at length attracted the attention of M. Delangle, then *bâtonnier* of the order, whose principal secretary he became, and who found his knowledge of law and indefatigable assiduity of great assistance in preparing the enormous business with which he was then overwhelmed. But, in 1840, M. Delangle was unexpectedly

appointed Advocate-General, and M. Mathieu found himself again thrown on his own resources, without clients and without money, and it was not until after a struggle that lasted for several years that he succeeded in conquering for himself the influential position and immense practice which he now enjoys. Precision, clearness, and vigour are the characteristics of M. Mathieu's oratory, and he is especially happy in reply.

M. Ledru-Rollin, in spite of the dangerous and revolutionary nature of his political and social opinions, must be admitted to be among the ablest men that the Parisian Bar has produced during the present century—ready, energetic, fearless, eloquent, handsome in person and agreeable in manners, and possessed of a remarkable power of impressing and carrying along with him those who come within the sphere of his influence. He was born in 1808, and came to the Bar in 1830. In 1832 he gave an opinion against the state of siege, which, in defiance of the constitutional charter, withdrew the citizens from their natural judges and subjected them to the jurisdiction of military tribunals. This opinion was successfully maintained by M. Odillon-Barrot before the Court of Cassation, which annulled the sentence of the military courts, and sent those who had been condemned by them to be tried before a jury. M. Ledru-Rollin was the author of a pamphlet, published in 1834, on the subject of the disturbances which took place in the course of that year in various parts of France. It was very popular, and from that time he was ready to put his great legal and oratorical talents at the service of those republicans who were prosecuted by the Government of Louis Philippe. He defended M. Caussidière before the Court of Peers, and also M. de Lavaud, compromised in the affair of the regicide Meunier. He likewise signalized himself in many cases connected with the liberty of the press, such as those of the *Journal du Peuple*, *La Nouvelle Minerve*, *Le Charivari*, and *La Réforme*. The electors of Mans chose him as their representative in 1841, and as a successor to M. Garnier-Pagès, whose advanced liberal opinions were similar to those of M. Ledru-

Rollin, though less extreme and under the control of greater practical good sense and more political sagacity.

M. Ledru-Rollin's ardent imagination and impetuous temper often led him to use expressions in the heat of debate which it was impossible to justify. Thus, on one occasion while pleading before the Court of Cassation, in an appeal arising out of the prosecution of an intemperate speech he had delivered to the electors of Mans, and which had been published in a provincial newspaper, he made the following inexcusable, almost ferocious, attack upon the public prosecutor. "*Procureur-Général*, who then invests you with your office? The ministry? I, as elector, dismiss the ministers. In whose name do you speak? In the name of the king? I, elector, (history is there to tell you so), make and unmake kings. On your knees! on your knees! then, *Procureur-Général*, before my sovereignty. To dispute my impartiality is to lay the hand on my electoral crown!" In consequence of this outrageous attack he had to appear before a jury at Angers, and, though defended by Berryer and Odillon-Barrot, was sentenced to a fine of £120 and four months' imprisonment. This decision was, however, set aside by the Court of Cassation on the ground of informality, and M. Ledru-Rollin, having been remitted to the Court of Assizes at Mayenne, was acquitted.

In 1842 and 1848 he was re-elected deputy, but for some time his influence in the Chamber was but trifling and his position isolated. He constituted himself the champion and defender of the working classes, and founded a journal called *La Réforme*, in order to advocate extreme political and social changes. "The workmen," he said, "have been slaves, they have been serfs, they are at present hirelings; we must advance them to the position of associates. . . . The State, until the common people are emancipated, ought to spread the banquet of the poor. . . . To the strong and healthy citizen the State owes work; to the old and the indigent it owes help and protection."

M. Ledru-Rollin was, as might have been expected, a strong partisan of the reform banquets which inaugurated the Revolu-

tion of 1848. At Lille he drank "to the amelioration of the labouring classes," and, in an impassioned speech, claimed "liberty for all, liberty of conscience, liberty of thought, liberty of association;" while, at the banquet at Châlons, he pronounced an elaborate eulogy on the acts of the Convention. The Revolution of 1848 brought him, at length, for a time, into a foremost place among the rulers of France. He was utterly hostile to the proposition of a regency under the Duchess of Orleans, and exerted all his energy and eloquence to establish a provisional government, of which he became a leading member. He mainly contributed to the proclamation of the republic and of universal suffrage; but there was an inherent weakness in the Government then established from the different and hostile opinions which its members represented. M. Ledru-Rollin became Minister of the Interior under the Provisional Government, and had for his secretary-general M. Jules Favre, now the acknowledged head of the democratic party in France. He entered upon the duties of his office with zeal and courage, but he had not the force of character which enables a man to resist the importunities of his followers and partisans and the solicitations of his friends, and many of the appointments which he made in the different departments of France were severely and deservedly censured. He was but coldly received in the National Assembly when he and his colleagues in the Provisional Government appeared to give an account of their administration and to transfer the powers confided to them. The Assembly, however, appointed him a member of the "Executive Commission," in whom were vested the functions of the former Provisional Government—the other members being MM. Lamartine, Arago, Garnier-Pagès, and Marie; so that three out of the five were members of the Parisian Bar, while M. Crémieux—a fourth advocate belonging to the same Bar—held the office of Minister of Justice.

The popularity of M. Ledru-Rollin received a severe shock on the 15th May, when the National Assembly was invaded by a socialist mob, led by Albert and Barbès, with whom he was more than suspected of intriguing. He strongly opposed the

admission of the present Emperor into the Assembly, and was, subsequently, one of the unsuccessful candidates for the office of President of the Republic. After the election of Louis Napoleon to that office, M. Ledru-Rollin severely attacked the policy pursued by the majority of the Assembly, and so embittered were some of the debates, that the result of one of them which occurred on the 11th April 1849, was a duel between him and M. Denjoy, which, however, terminated without bloodshed. He was a vigorous opponent of the ill-judged expedition to Rome, and several times mounted the Tribune to denounce it. A less justifiable mode of opposition to the existing Government, was the agitation which he stirred up in various electoral districts, and the attempts which he made to excite the working classes at banquets, held at different localities throughout the country. But he did not find this political crusade altogether safe or pleasant; for, on his return from a banquet held at Moulins, he was attacked by some National Guards, and his carriage pierced by bayonet stabs and sword thrusts, so that he himself and his friends escaped with the utmost difficulty. He was afterwards returned to the Legislative Assembly by five different Departments, and succeeded in obtaining 182 votes, against 336 given for M. Dupin the elder, in the election for the office of President of the Chamber. He renewed his attacks in the Legislative Assembly upon the Government policy with reference to the expedition to Rome,—founding upon the 5th article of the Constitution, forbidding all war against foreign nationalities—and demanded the impeachment of the President and his Ministers. But 361 voices against 203 voted for passing to the order of the day, and so settled the discussion on the Roman question; while, on the question of the impeachment only eight voices supported the proposition of M. Ledru-Rollin. This signal defeat seems to have deprived him both of common sense and patriotism, and to have left him a prey to the promptings of disappointed malice and ungratified passion; for, next day, he and the extreme radical party issued a violent proclamation against the President, Ministry, and majority of the

Assembly, in which they invited the people to rise and assert their rights by force. But the rising thus excited was easily and speedily quelled; and M. Ledru-Rollin, after remaining concealed for some time in Paris, succeeded in effecting his escape to England, where he has since resided. He has expressed his gratitude for the shelter afforded him, and the refusal to give him up to satisfy the violated laws of his country, by publishing a work entitled *The Decline of England.*

It is impossible to view the political career of M. Ledru-Rollin without strong feelings of disapprobation and regret; but it is also impossible to avoid admitting that he is a man possessed of many noble gifts and many attractive qualities. Some of his old friends at the Bar, though differing from him widely on political and social questions, still think of him with tenderness; and the following appreciation of his character by one of them will form an appropriate close to our brief notice of his life:—"We remember," writes M. Oscar Pinard, "M. Ledru-Rollin appearing after 1830, then young, handsome, fascinating, industrious, bountifully endowed with a multitude of gifts, and full of wise ambition. Everything seemed to protect him against the storms of life,—if we can ever be protected against our own passions and the fatality of our destiny. Those who have only known in him the impetuous tribune, will scarcely believe that there were few spirits naturally more moderate, possessed of more coolness, more adapted for business, and endowed with greater tact and discrimination. If his ardour has sometimes betrayed him, it has far more often been of service to him; it is by means of it that his talents have increased, that he has become stronger while becoming simpler and more natural, and that he has ended by astonishing even those who would have liked nothing better than to have been able to despise him. There are old prejudices with regard to him which it is time to renounce. All successes are far from being legitimate, as has been said by those who love to adore success; all, however, may be explained. Parties do not give themselves up,—history is there to prove it,—except to those

who are worthy of subjugating them. The fact is that M. Ledru-Rollin has ended by speaking the language of politics and of the passions as the most celebrated public orators would have done. They will always quote the speech which he delivered when, precipitated from power, already abandoned to all resentments, all suspicions, he replied with violence to the unjust and interested attacks made against him; in the force, the freedom, the savage grandeur which he there showed, we seem to hear Danton: 'O press!' he exclaimed, 'I have had the happiness to defend you, you that have assailed me in so outrageous, so odious a manner. The Ledru-Rollin who addresses you, is Ledru-Rollin the thief, the libertine. It is thus that you have requited my devotion to the republic. Yes, yes, I glory in it, I, the libertine with mistresses whom I never saw,[1] the thief who sacrificed his fortune to hasten the advent of the republic to which many among you are opposed, and to whom, of all his patrimony, there remains only his inextinguishable love of liberty. I was unable to reply to the attacks made against me, but, with Franklin, the superior of my assailants in every respect, I said to myself, If they are vices with which they reproach me, their censure will punish me; if they are calumnies, history will punish them in their turn.'

"Attacked and defended with violence, the celebrated men of all ages still remain to be known. Fancy portraits are painted of them, which are obstinately taken for realities. It remains to be ascertained if the individuals to whom parties have given themselves up, and who have given themselves

[1] Among the calumnies circulated against M. Ledru-Rollin by his political opponents, especially in the remoter districts of France, that of his licentiousness was a favourite one. It is thus noticed by M. Louis Blanc in his *Historical Revelations*:—"It is quite certain, incredible as it may appear, and the fact has not been denied, that in certain sequestered districts, M. Ledru-Rollin, under the title of 'Duke Rollin,' was believed to be a man of most profligate habits, having two mistresses, 'La Marie' and 'La Martine;' whereat the good honest people, who had been made to gobble down this hideous story, very naturally said, 'Oh! one mistress is more than enough; but a couple—it is too bad.'" Of course the "La Marie" and "La Martine" were just corruptions of the names of his two colleagues, MM. Marie and Lamartine.

up to parties, would have cared a great deal about being truthfully represented; there is a conventional air about such portraits which is not unbecoming, and which, after all, only deceives the public, which is made, they say, to be deceived. When M. Ledru-Rollin shall be spoken of, they will not know that he was a good, affectionate, fascinating man, fond of the fine arts and of intellectual pleasures; that he knew men so well that he never took the trouble to hate them; and that none had so much indulgence, tact, and influence with them.

"At the moment I am writing, I have before me a portrait of I know not whom, drawn by Tacitus, which strikes me by a certain air of resemblance, to M. Ledru-Rollin,—excepting that it is of greater value—and on that account I reproduce some features of it:—'*Vir secundis adversisque juxtà famosus. . . . Insignes amicitias juvenis ambitiose coluerat; mox, attritis opibus, luxuria, industria, comitate, arrogantia, malis bonisque artibus mixtus: sed apud subjectos, apud proximos, apud collegas variis illecebris potens.*' It is in this last stroke of the pencil of the greatest painter of antiquity that we especially recognise M. Ledru-Rollin."

[1] The portrait here alluded to by M. Pinard is that of the Roman general Licinius Mucianus. As it is a masterly piece of character-painting, we here give it at length. "Syriam et quatuor legiones obtinebat Licinius Mucianus, vir secundis adversisque juxtà famosus. Insignes amicitias juvenis ambitiosè coluerat: mox attritis opibus, lubrico statu, suspectâ etiam Claudii iracundiâ, in secretum Asiæ repositus tam propè ab exule fuit quam postea a principe. Luxuriâ, industriâ, comitate arrogantiâ, malis bonisque artibus mixtus: nimiæ voluptates, cum vacaret: quotiens expedierat, magnæ virtutes. Palam laudares, secreta malè audiebant. Sed apud subjectos, apud proximos, apud collegas, variis illecebris potens: et cui expeditius fuerit tradere imperium quam obtinere."—(*Tac. Hist.* I. 10.)

CHAPTER XV.

The Philosophical and Literary Elements in the Bar of the Nineteenth Century—MM. Royer-Collard, Louis-Marie de Cormenin, Alexis de Tocqueville, etc.

It may perhaps be thought that the present chapter should commence with the name of M. Thiers, who, arriving in Paris a poor, briefless, friendless barrister, belonging to the Bar of Aix, succeeded notwithstanding, within the comparatively short space of fifteen years, in winning for himself the highest reputation as historian, statesman, and orator; who was Minister of Foreign Affairs, and thrice President of the Council of Ministers; and who at present displays such eminent abilities as head of the opposition in the Legislative body. But M. Thiers' character and works—especially his great *History of the Consulate and the Empire*—are so well known in this country, that we prefer selecting from the annals of the French Bar the names of MM. Royer-Collard, Louis-Marie de Cormenin, and Alexis de Tocqueville, the first two of whom, at least, are less known in England than they deserve to be.

M. Royer-Collard has left the stamp of an original, powerful, and comprehensive intellect upon the earlier part of the nineteenth century. His character and habits were simple, frugal, and austere; but his strong will, his profound self-reliance, his unshaken integrity, the elevation of his views, the extent of his knowledge, and the exquisite finish of his oratory, gave him an influence over even the greatest of his contemporaries, and over the course of events in France, such as few other men possessed. He was a penetrating, sarcastic observer, and was distinguished by a clearness of thought which saw nothing by half lights, but everything fully and completely;

and from this sprang the singular force and descriptiveness of his language. As a speaker he was unusually careful and fastidious. The slightest negligence shocked him. He would have nothing that was not fully thought out and thoroughly finished. His speeches—such as that on the press, and that on the crime of sacrilege—formed events in the Chamber, so exquisite were they in language, so matured in thought, so full of noble sentiments, so animated and warmed by a well-regulated love of liberty and justice. In every department of public life in which he was engaged, M. Royer-Collard left the mark of his independent and vigorous nature. As a professor of philosophy, he changed the whole course of philosophical teaching in France, and educated those—such as Jouffroy, Cousin, and others—who have since exercised a commanding influence upon the current of philosophy in Europe. During his parliamentary career he succeeded in the difficult task of carrying out, for a considerable period, a policy which aimed at maintaining the ancient monarchy, and, at the same time, combining and reconciling it with the freshly-won liberties of the people. He steadily opposed the Spanish war, the laws against the press, and the aggravation of the punishment of sacrilege; and, towards the close of the Restoration Government, presented the singular spectacle of a royalist seconding the views of the liberals. He accepted the monarchy of 1830, not because he approved of it, but because he viewed it as the only barrier that remained against revolution and anarchy; and, with characteristic energy and devotedness, he remained in the breach to oppose and arrest the progress of the extreme party. Consistency of conduct was one of M. Royer-Collard's great distinctions, and one of the chief causes of his influence. As father of a family, as teacher of philosophy, as statesman, he was a model of rectitude and inflexibility—not indeed an amiable and fascinating character, but one which it is impossible to contemplate without admiration and respect. He was originally a member of the Bar, and pleaded several causes before the ancient Parliaments. But he was not fitted to shine as an advocate. He wanted faci-

lity, readiness, and tact. He could not take up a subject at once, but required to turn it round, reflect upon it, view it in every light, and then proceed to clothe it in the magnificent and finished language in which he excelled. We propose to consider somewhat more in detail the career of this able and remarkable man.

M. Royer-Collard was born in 1763, at the village of Somepuis. Like many other eminent men, he seems to have been chiefly indebted to his mother for the leading peculiarities of his disposition and character. She was descended from a family well known in the history of Jansenism for their simple habits, firm and lofty characters, and sincere but somewhat narrow piety. His father, M. Royer, was the son of a notary, but belonged to no profession, occupying himself in the cultivation of his lands. When he brought his wife home, he said to her,—"You shall rule the interior of the house, you shall direct the education of our children, and you shall regulate their destiny. I only ask from you one of them, to make him a cultivator of the ground like myself." Madame Royer-Collard had three sons and a daughter. One of the sons died in infancy, and she determined that the elder of the two survivors—the subject of the present sketch—should go through a complete course of study, while the younger should become a farmer, in conformity with the wishes of his father. The younger, however, had no taste for farming, and afterwards became one of the most distinguished medical men in France. The earlier studies of M. Royer-Collard were prosecuted in the grammar-school of Chaumont, where he carried off most of the prizes; and he was afterwards placed with one of his uncles, who was at the head of a college at St. Omer, under whose superintendence he became a thorough classical scholar and an excellent mathematician. On leaving St. Omer, he proceeded to Paris to prosecute his legal studies, and joined the Bar of that city early enough to plead several times before the ancient Parliament. Like most of the young advocates of the period, he shared in the hopes which the earlier days of the revolution inspired in so many generous minds, and was on terms

of intimacy with some of the chief actors in that great political drama, such as Pétion and Danton. But he soon became disgusted with the excesses perpetrated under the mask of liberty, was included in the list of the proscribed, and compelled to leave Paris, and seek a refuge with his mother in the country, where he remained until the Reign of Terror had passed. He was subsequently chosen one of the Council of Five Hundred by the electors in his own neighbourhood, and returned to Paris, where he put himself in communication with the exiled royal family, with the view of bringing about their restoration to power, as the best means of securing the tranquillity and prosperity of France. In 1803, he wrote to congratulate Louis XVIII. on the occasion of his refusing the propositions made to him by the First Consul, to renounce his claims to the throne of France for a compensation. His letter is marked by the calm and far-sighted wisdom which distinguished his character. "We shall not," he writes, "hold out to your Majesty vain hopes, founded upon troubles within and without, and upon the means of exciting them. Your Majesty is sufficiently well aware, since it is our principal title to your confidence, that our aspirations do not point to foreign intervention, and that our character, our principles, and our duties, equally preserve us from the spirit of conspiracy and of faction. . . . France reposes in profound peace, since a man, as extraordinary as his fortune, has seized the reins of Government. Some enjoy the calm without reflection and without foresight; others, who maintain their allegiance to your Majesty in the courts, the camps, the councils, believe that they are truest to it by submitting to that provisional authority, whose necessity they recognise, and which the hand of God himself appears to have raised up to confound the principles and the examples of the revolution; it is to the future, then, that all our hopes are directed."

Towards the beginning of the First Empire M. Royer-Collard married Mademoiselle Forgues de Châteaubrun, descended from a noble family of Berry, by whom he had a son and three daughters. The son and eldest daughter died in in-

fancy; and, in the education of the two surviving daughters, their father showed a degree of rigour and severity which is among the least amiable traits in his character. As his wife's health was delicate, and unfitted her for the care of bringing up her daughters, he sent for an old family servant, named Marie-Jeanne, imbued with the narrowest and most austere views of religion, and to her he committed the charge of his youthful daughters. She treated them with the utmost sternness, compelling them to submit to all the privations and restraints which she imposed upon herself, accustoming them to the spectacle of sickness, hideous sores and wounds, and premature death, in order to give them strength of character and self-control, which she regarded as the greatest of all virtues. M. Royer-Collard added to the rigidness of such an education, by always maintaining an inflexible and commanding attitude towards his daughters, avoiding gaiety as frivolous, and paternal tenderness and caresses as tending to enfeeble the character. His mother and grandmother had belonged to the earlier Port-Royalists, and had been remarkable for their self-denial and greatness of soul, and he wished to model his daughters after their image. The strictest regularity was observed in his household. Each day the same duties were performed at the same hour. All disorder and confusion were sedulously avoided; everything was kept in its place. Idleness, inattention, and levity were severely censured; games and songs were forbidden. They rose early, and, after a frugal breakfast, were made to inspect the farm, and see that everything was in good order. They then returned to their studies, which their father superintended in person, and afterwards went out to walk, whatever might be the weather, as M. Royer-Collard was continually haunted by the remembrance of the luxurious lives of the ladies of the eighteenth century, and was determined that his daughters should not resemble them. "I do not wish you to be fine ladies," he used to say to them; "I shall take good care to prevent that." In the evenings, instead of occupying themselves with embroidery or music, or ornamental work, they spent their

time in making clothes for the poor, and in reading or listening to selected passages from memoirs and histories. The fine arts, the pleasures of the imagination, formed no part in their education. Their father and Marie-Jeanne were always inveighing against the ordinary feminine accomplishments, and praising courage and strength of mind as the highest female virtues.

But if M. Royer-Collard was thus severe and exacting towards his daughters, he was no less so towards himself. His life and habits were simple, hardy, and frugal. He held all delicacy and all self-indulgence in abhorrence, making life as laborious and as full of self-denial as possible. The hours of sleep were restricted within the shortest compass, the furniture of his house was rude and plain,—easy-chairs, curtains, statues, vases, everything tending to promote comfort, pleasure, and repose being carefully avoided, as tending to minister to an effeminate and useless existence. In three things only did he relax from his habitual simplicity and frugality—in buying books, in charity, and in maintaining the external state which the exercise of important public functions imposed upon him. In all else he was the man of the country, plain, hardy, and simple.

Before being called upon to take a prominent part in public life, M. Royer-Collard was destined to fill an important position as teacher of philosophy in the university founded in Paris by the Emperor Napoleon; and it is one of his highest titles to admiration and remembrance, that, in a situation for which he had not been previously trained by special studies, he should have won for himself so great a name, and educated so many men who have since influenced and directed philosophical opinion in France. He at first refused the chair of philosophy, and only accepted it when almost forced to do so by friendly compulsion. His reading, and the cast of his mind, led him to prefer the philosophy of the seventeenth to that of the eighteenth century; but it was the accidental acquisition at a book-stand of a copy of Reid's *Inquiry into the Human Mind*, and a subsequent perusal of the same author's *Essays on the*

Intellectual Powers of Man, that ultimately formed and determined the character of his philosophical system. His course of philosophical teaching was of no long duration—commencing in the end of 1811, and finishing at the close of 1813; but it endured long enough to inaugurate a school which has taken deep root in France, and is still flourishing. His lectures have not been preserved, but fragments of them are to be found in his pupil, M. Jouffroy's translation of the works of Reid.

The events of 1814 removed M. Royer-Collard from the chair of philosophy which he had done so much to adorn, and in which he was succeeded by Cousin, his most famous pupil. He was appointed Director of the Press under the First Restoration, but was deprived of his functions on Napoleon's return from Elba. His devotion to the exiled family had considerably cooled when the second Restoration occurred. "How are we to choose," he exclaimed, "between the despotism of Napoleon and the government of those unhappy princes who return in the baggage of the foreigner?" Under Louis XVIII., M. Royer-Collard was appointed President of the Council of Public Instruction, and was elected a member of the Chamber of Deputies. With all his attachment to legitimacy he was thoroughly imbued with many of the ideas of 1789, being in favour of the abolition of privileges, the complete equality of the various forms of worship, and the entire secularisation of the State. He was at once a faithful royalist and a decided liberal, believing that an hereditary monarchy, controlled and balanced by a legislature where the ablest and wisest men of the nation should meet together, was the form of government best suited to the requirements of France. But he was no idolater of royalty, and as often opposed as supported the royal prerogative in the Chamber. He looked beyond the mere form of the government, to the great objects to which all Governments should be made subservient. He sometimes voted with the King against the Chamber, and sometimes with the Chamber against the King and the Ministry; but never lost sight of his fundamental principles

—a hatred to privileges and a respect for public opinion. He supported the King and the Ministry when he believed them to be acting in accordance with the constitution and the requirements and rights of the nation; he opposed them when they attempted to encroach upon or violate them. He was neither the blind partisan of the supremacy of the King over the Chamber, nor of that of the Chamber over the King; but he was in favour of that Government which best represented the legitimate rights and interests of the country. The great question with him was whether the administration was so directed as to support the true interests of the nation, or merely the selfish ends of a party. He strenuously supported complete liberty of opinion and of worship, and secular education under the guidance of the State, as an essential and invaluable right of the people, though these were strongly opposed by the partisans of the ancient *régime*, who wished to reconstitute a privileged and dominant church. So also, in one of his most celebrated speeches, he opposed the Government, towards the close of 1817, when they proposed to refer serious offences committed by the press to a jury, but slight misdemeanours to the correctional tribunals. He wished to make the jury judges of both; maintaining that to place an arbitary power—such as that proposed to be conferred on the correctional tribunals—in the hands of a permanent body was dangerous and unconstitutional; that a nation which does not itself protect the life, the honour, the security of its members in criminal matters, may have enlightened and virtuous magistrates, but is not free, is under the sword. "Deputies and jurors," he continued, "you have the same origin and are marked by the same seal; the same bond binds you together; the same trust is confided to you. Deputies, you are the country which makes the laws; jurors, you are the country which pronounces the verdicts. Therefore it is that judgment by juries is termed in England the judgment of the country, or by the country, *per patriam*. . . . The license of private opinions is efficaciously controlled only by the energy of general opinion and public reason,

of which juries alone are the legitimate and authoritative organs."

In 1819, M. Royer-Collard again opposed the Government of the day, which was gradually setting itself in antagonism to the current of liberal opinion, and which wished to modify the existing electoral law, with the view of checking the progress of the liberal party in the Chamber. He was in consequence deprived of his office of Councillor of State, and M. Guizot—whom he had introduced into the public service—and M. Camille Jordan were involved in his disgrace, which was attempted to be softened by an offer, through the Minister, of the honorary title of Councillor of State and a pension of £400 a year from the King. These offers were at once declined by M. Royer-Collard in the following eloquent and dignified terms:—"I know what respect is due to the King's name: his favours are binding almost as much as his commands. I would not willingly disobey him, but I cannot consent to accept a pension under the seal, in consideration of my services. I have been, during six years, at the constant peril of my life, the principal servant of the King of France and his assiduous councillor. Since the restoration, until these recent events, I have exercised high functions, perhaps the most delicate and difficult of the administration. The salary of Councillor of State was in perfect harmony with services of that nature; it was the recompense which had been bestowed upon me by the bounty of the King; it satisfied, as you know, all my ambition. It has been withdrawn from me by the present ministers; I have nothing to say; but I do not think that I am obliged to accept in exchange for a public salary, and as a just indemnity, a secret salary from the secret funds. I should lower my character of deputy; I should degrade with my own hand the services which you recall; I prefer that they should be forgotten. There is no ostentation in this refusal; it is dictated to me by an invincible repugnance, and I feel that it is due to myself. No one is more capable than you of making it agreeable to the King by a proper explanation. I request of you this kind office. You tell me that his

Majesty relies upon me; he does justice to my feelings. An honourable disgrace, incurred in his service, brings its own consolation."

Towards the close of the year 1820, the anti-liberal party, then dominant, attempted to carry out one of their most cherished projects, the reconstitution of the clerical caste upon the ancient basis, independent of the State. They brought forward a bill intended to subserve this purpose. But it was warmly opposed by M. Royer-Collard, who gave the following graphic picture of the actual condition of the Church in the new state of society arising from the great revolution. "The alliance between the State and the clergy," he said, "consists in this, that out of the divine mission of the priest the State makes a social magistracy, the highest of all, since it has for its function the teaching of religion. The *price* of the alliance, excuse the necessary expression, is protection. The condition is that the priest shall confine himself to the Church, and that he shall not go out from it to disturb the State. Such is the substance of all concordats. . . . Is a religion exclusive or even dominant? We may be certain that its ministers will be rich and great in the State, that they will exercise a vast power, and that they will unceasingly interfere in civil life with the view of subjecting it to ecclesiastical law. . . . Liberty of conscience is irrevocably established by the charter; the Catholic religion has ceased to be exclusive, it is not even dominant. . . . The ministers of the Catholic religion are in a new position, particularly in this respect, that they are placed, with regard to forms of Christian worship, under the law of equality; with regard to society, under the law of the liberty of conscience. . . . Under mild forms, the Concordat of 1817 concealed the counter-revolution among the clergy. I judge the revolution as severely as it deserves and as justice requires; but I do not in any way believe the counter-revolution good or permissible. . . . Fixed salaries have replaced territorial endowments. Thus the Catholic clergy forms a legal magistracy, instituted on the same basis and the same plan as the

judicial order." Such was the effect of the speech, from which the above is a quotation, that the ministerial bill was rejected by the Chamber.

About a year afterwards, the ministry of M. de Villèle introduced a law against the liberty of the press, which again called forth the strenuous opposition of M. Royer-Collard, who saw the Government in the hands of a party, the sworn foes of equality and the supporters of privilege. He declared that, in the existing state of society, the liberty of the press had the power of an institution; that the publicity which it afforded was a guarantee against the errors and encroachments of the established Government; and that it alone was capable of securing the triumph of truth and justice. His efforts on this occasion were however vain, and the liberty of the press was sacrificed for the time.

Another Government measure which excited the lively indignation and decided opposition of M. Royer-Collard, was the ill-advised expedition into Spain, undertaken against the wishes of the nation, and in the interests of absolutism. But it was upon the question of the aggravation of the penalties applied to the crime of sacrilege, that he won his most brilliant oratorical success. In 1825, the administration of the day brought in a bill the effect of which, if carried, would have been not merely to augment the punishment of sacrilege, but also to identify the law of the land with Romanism, by declaring that religion alone to be true and all others false. As a consistent and strenuous supporter of civil and religious freedom, it was impossible for M. Royer-Collard to approve of such a law, and he accordingly vehemently opposed it. "Human societies," he said, "spring up, live, and die on the earth. There they accomplish their destinies, there ends their imperfect and faulty justice, which is founded only on the necessity and the right of self-preservation; but they do not embrace the entire man. After his engagements to society, there remains to him the noblest part of himself, those lofty faculties by which he rises towards God; to a future life; to the unknown blessings of the invisible world. From these originate our religious be-

liefs, the glory of man, the comfort of feebleness and misfortune, the inviolable refuge against the tyrannies of this lower world." "Are governments," he afterwards exclaims, "the successors of the apostles; and can they say, like them, It has seemed good to the Holy Spirit and to us? If they would not dare to say so—and doubtless they would not dare—they are not the depositaries of the faith, and they have not received from on high the mission to declare what is true in religion and what is false." He proceeds to argue that if they were to punish the profanation of the Host, they must soon also punish blasphemy, heresy, incredulity;—"By what right does your profane hand separate the Divine Majesty, and declare it vulnerable in a single point, invulnerable in all others,—sensible to violence, insensible to any other kind of outrage?" He concludes that—if the proposed law were to pass—the government would become theocratic; but if a theocracy in former times was able, owing to the prevailing ignorance, to usurp some degree of authority, it would now be only a contemptible imposture, to which would be wanting sincerity on the one hand, and credulity on the other. "It is false," he continued, "that we only emerge from theocracy by means of atheism. Open the budget; you there find that the State annually disburses thirty millions of francs for the maintenance of the Roman Catholic religion alone. The law of finance, at least, is not atheistic. But here is a proof more convincing, if that be possible, that God is not excluded from our laws: it is that the laws are themselves placed, and along with them the whole of society, under the safeguard of the oath. . . . What! the oath is a religious act where God, everywhere present, intervenes as witness and as avenger; and although the laws continually trust to the protection of the oath, which they continually, and perhaps prodigally, order, there are yet those who dare to say that God is excluded from these very laws, and that the State is legally atheist! . . . That anathema, launched against us from all sides with so much vehemence, is only the cry of irritated pride,—a vengeance levelled at the law whose impartiality

has declined to declare a single religion true, and all others false. Liberty, and the equal protection of all forms of worship, such is the only atheism of the charter." With regard to the political effect of religions, he points out that false religions have been as conducive to the success and splendour of nations as true ones. Orthodox Spain has fallen into decay; heretical England and schismatic Russia are flourishing. The conclusion is in the following terms:—"I here lay down the burden of this terrible discussion; I would not have sought to raise it if I had only consulted my strength; but a profound conviction, and the feeling that I had a great duty to fulfil, have animated and sustained my weakness; I have wished to mark, by breaking a long silence, my strong opposition to the theocratic principle which threatens at once religion and society, and which is so much the more odious, that it is not, as in the days of barbarism and ignorance, the sincere rage of a too ardent zeal which rekindles the torch of persecution. There are no longer Dominics, and we are no longer Albigenses. The theocracy of our time is less religious than political; it forms part of that system of universal re-action which hurries us away. That which chiefly recommends it, is that it has a counter-revolutionary aspect. Undoubtedly, the revolution has been impious even to fanaticism, even to cruelty; but let us beware: it was that very crime which proved its ruin, and we may predict with regard to the counter-revolution, that reprisals of cruelty, even carried no further than the letter of the law, will bear witness against it, and will ruin it in its turn." This magnificent speech—which the orator himself considered his most successful effort—had the effect of throwing out the obnoxious law.

Almost the last battle waged in the cause of freedom by M. Royer-Collard was on the occasion of a bill by which the administration proposed to restrict the liberty of the press. His speech breathes more of irony and contempt than of indignation:—"According to the original conception of the bill," he says, "there has been an oversight at the dawn of creation in allowing man to escape free and intelligent into the midst of

the universe; from this have sprung evil and error; a higher wisdom is now ready to correct the mistake of providence, to restrain its imprudent liberality, and by wise restrictions to raise humanity at last to the happy innocence of the brutes. . . . Twice during the space of twenty years—we have not forgotten it—tyranny has pressed heavily upon us, the revolutionary axe in the hand, when the brow was radiant with the splendour of fifty victories. The axe is blunted; no one, I believe, would wish to take it up, and no one also would be able to do so. . . . It is in glory alone, political and military glory, such as that which has dazzled us, that tyranny can now temper her arms. Without glory she would be ridiculous. Councillors of the Crown, known or unknown, permit us to ask you a question: Have you done anything hitherto which raises you to such an elevation above your fellow-citizens, that you are in a position to tyrannize over them? Tell us the date when you acquired glory? Where are your battles gained? Where the immortal services which you have rendered to your king and country? Obscure and commonplace like ourselves, it seems to us that you surpass us only in audacity. . . . The law which I oppose announces the presence of a faction in the Government as certainly as if that faction proclaimed itself, and as if it marched before us with banners displayed. I shall not demand of it what it is, whence it comes, or whither it goes: it would lie. I judge it by its works: it now proposes to you the destruction of the liberty of the press; last year it exhumed the right of primogeniture from the ashes of the middle ages; the year preceding the law of sacrilege. Thus in religion, in society, in government, it goes backwards; . . . it leads by fanaticism, privilege, and ignorance to barbarism, and to the absurd forms of government which barbarism favours. The undertaking is laborious, it will not be easy to carry it out. For the future not a line shall be printed in France—I grant it; a brazen frontier shall preserve us from foreign contagion—well and good. But it is a long time since the discussion began in this world between the good and the bad, the true and the

false; it fills innumerable volumes, read and re-read, night and day, by an inquisitive generation. From libraries, books have passed into the souls of men; it is from thence that you would expel them. Have you a bill to effect that? As long as we shall not have forgotten that which we know, we shall be but ill-disposed to submit to brutal stupidity or servitude. But the intellectual movement arises not only from books. Sprung from social liberty, it is kept alive by work, by riches, and by leisure. The dense population of towns and the facility of communication keep it up. In order to enslave men, it is necessary to disperse and to impoverish them; wretchedness is the safeguard of ignorance. Take my advice, diminish the population; send back the mechanics to till the ground, burn the manufactories, fill up the canals, break up the high roads. If you do not do all this, you will have effected nothing; if the plough-share does not tear up the whole field of civilisation, that which remains will be sufficient to baffle all your efforts."

On the dissolution of the Chamber of Deputies in 1827, M. Royer-Collard received the reward of his long and brilliant political services, when, on the occasion of the new elections, he was chosen by no fewer than seven electoral departments. In the same year the French Academy opened its gates to him; and his reception discourse was characterized, like all his public appearances, by noble thoughts expressed in singularly choice and appropriate language. Indeed, at this time, M. Royer-Collard was perhaps the most finished orator in France; and the effect produced by many of his speeches was immense. "We yet recall," says one of his biographers, "the effect of his oratory upon the Chamber; the universal expectation which the announcement of one of his orations produced; the benches which suddenly became thronged; the silence which was established; the profound attention which was bestowed on all the words and all the gestures of the speaker. M. Royer-Collard, manuscript in hand, that he might not falsely play the part of an extempore speaker, did not, however, read his speech, but recited it in an

animated, convinced, imperious tone; a murmur of applause circulated among his auditory; an explosion of enthusiasm burst forth at the close of the oration and interrupted the business of the House. Other speakers have enjoyed successes of this kind; but an advantage peculiar to him was, that by the novelty and the weight of his arguments he changed the course of the discussion: he established it on a new basis, which at once became the common field of battle. All the old arguments were lost sight of; he had raised a new standard, which some sought to maintain, and which others wished to overthrow, but around which thenceforth raged the whole strength of the combat."

The result of the elections of 1828 did not answer the expectations of the partisans of the ancient *régime*. The Ministry were defeated, and compelled to retire; Charles X. unwillingly summoned to his councils men imbued with more liberal ideas; and M. Royer-Collard was elected President of the Chamber. The new Ministry exerted themselves to the utmost during the sessions of 1828 and 1829 to bring into harmony legitimate monarchy and constitutional liberty, but in vain. The King took advantage of the check which they experienced, when obliged to withdraw the bill relating to the organization of the communes and departments, to dismiss them, and to call to his assistance men more subservient to his own retrograde views and opinions, whose advent to power inspired general distrust and apprehension in the Chamber and throughout the country. At the opening of the session of 1830, the Chamber of Deputies drew up the famous address known as the Address of the 221, in which they refused to co-operate with a Ministry whose fundamental idea was an injurious distrust of the feelings and public opinion of the country, and called upon the Sovereign to decide between those who slighted and disregarded the wishes of a nation so calm and so loyal, and a Chamber which, with a deep conviction of the necessity of the case, had just confided to his Majesty the grievances of an entire people, jealous of the esteem and confidence of its King. This address was drawn up by M.

Gautier, a tried royalist, and it fell to the lot of M. Royer-Collard,—also a faithful friend to legitimacy,—in his capacity as President of the Chamber, to read it to the King. Next day the Chamber was prorogued, and M. Royer-Collard retired to the country, to lament over the blindness of the Sovereign and the imprudent impetuosity of the friends of liberty. The dissolution of the Chamber, the new elections which returned a majority still stronger than the former against the unpopular administration, and the Revolution of 1830 rapidly followed. With that revolution the active political life of M. Royer-Collard may be said to end. He viewed it with dislike and suspicion, believing that it was but answering one violation of the charter by another. He did not, however, retire from the Chamber, where there were still social and political questions to be discussed which deeply interested him. In 1831, he spoke upon the constitution of the House of Peers; in 1835, upon a question relating to the powers of juries; and in 1839, finally retired from public life, followed by the respect and regret of men of all parties and shades of political opinion. His death took place in 1845, at his estate of Châteauvieux. He viewed its approach with characteristic composure and self-control, saying to the priest who attended him, "Do not pray to Heaven for my cure; pray for patience and resignation." He was calm and self-possessed to the end, and expired surrounded by his family, and listening to the prayers for the dying read by his grandson.

The following sentences from M. Barante's interesting life of M. Royer-Collard admirably sum up the chief peculiarities of his political character :—"He had loved the first revolution, equality before the law, and the intervention of the representatives of the nation in the management of public affairs. He disliked and hated the democratic revolution, and foresaw that it would end in despotism. Persuaded that a restoration was capable of realizing the chief wishes of France, he had patiently awaited it. His hopes were fulfilled; it was then that he entered into political life, not from ambition, but

from the sincere desire of serving a Government which seemed to him destined to do honour to France, and to guarantee her the liberty necessary to insure the exercise of power with justice and discrimination. He showed himself active, courageous, devoted to the cause which he had espoused, faithful to his principles without being blind to the necessities of the moment; too independent to give himself unreservedly to a ministry or a party; knowing how to compromise when necessary, but never making a sacrifice of principle; never more attached to legitimate monarchy than when he opposed the King with the view of arresting him on the brink of the abyss. The Revolution of July put an end to the active life of M. Royer-Collard. Recognising the necessity of that great change, convinced that Charles X. had lost himself by his own fault, acknowledging that Louis Philippe's ascent to the throne was the only chance of safety, he blamed no one for having contributed to bring it about. He took the oath of allegiance sincerely; he did not resign the office of deputy which had been conferred upon him by his fellow-citizens. But he had no longer a part to play in the parliamentary drama. An attentive and clear-sighted spectator, he had no connexion with the parties which divided the Assembly, and remained almost always indifferent to the cabals and strifes which agitated it under his eyes. For him the restoration had been as his native country; now it no longer appeared to him that he had the duties of a citizen to fulfil; he was the subject of a new power to which, in the interests of his country, he wished well, without expecting much from it. He had remained on good terms with his friends, most of whom were attached to the Government by their opinions and their positions; but he had no advice to give them, and did not take much interest in their success. His impartiality, his grave countenance, the rarity of his words, always spiritual and penetrating, contributed to make for him a place apart and to surround him with high respect."

M. de Cormenin—perhaps better known under the pseudonym of Timon—was born in Paris, at the commencement

of the year 1788. His family belonged to the noblesse of the robe, and his father and grandfather held high offices in the Admiralty. The sponsors of the infant Cormenin were the Duc de Penthièvre and the beautiful but ill-fated Princesse de Lamballe. As a young man, M. de Cormenin displayed great liveliness of parts and fondness for polite literature, which he cultivated with assiduity and success. Some of his early verses are graceful and polished, though they do not display much trace of poetic fire. He was destined to gather his laurels in other fields. In 1808, he became a member of the Parisian Bar, and not long afterwards received an appointment as auditor in the Council of State. In spite of his attachment to literature, M. de Cormenin was an admirable and profound jurist, especially in the department of administrative law, and his works in that branch of legal science are characterized by extensive reading, great clearness of view and power of analysis, and remarkable force of reasoning. These valuable qualities are apparent even in his earliest work, entitled *Concerning the Council of State considered as Council and as Jurisdiction in our Constitutional Monarchy.* In this little volume of 238 pages the author comes forward to suggest a better organization for the Council of State, and claims guarantees for the public—such as publicity of sittings and oral pleadings—against its excessive powers. His most important work on jurisprudence is that entitled *Questions of Administrative Law,* published in 1822, in which he endeavours to deduce from the course of previous practice certain fixed rules and principles for the better regulation of future procedure. It was a most popular and successful book from its first appearance, and has since gone through a great number of editions.

M. de Cormenin was elected a deputy in 1818, and at first warmly supported the policy of the Government of the Restoration, but, at the same time, showed himself a watchful defender of the guarantees supplied by the constitution against the possible excesses of the central power. He never greatly distinguished himself as a speaker, and when he did ascend the Tribune he read his speeches; but he was a recognised

authority on all questions of administrative law. Although voting with the constitutional majority of 221 in resisting the abuse of the royal prerogative, he was decidedly opposed to the advent of Louis Philippe to power, and saw with regret the overthrow of the Government to which he was attached by many ties, and from which he had received many favours, having been made a Baron by Louis XVIII., and a Viscount by Charles X. He accordingly resigned his seat in the Chamber of Deputies, but a short time afterwards re-entered it, on being chosen deputy by four electoral colleges at once. He showed himself a formidable antagonist to the Orleans dynasty; and it was during their tenure of power, that he acquired his immense popularity as a pamphleteer. What Ulrich von Hutten was to the monks and the Papal power, Pascal to the Jesuits, Junius to the Government of George III., Franklin to the enemies of American independence, Paul-Louis Courier to the Restoration Government, M. de Cormenin was to the Orleans dynasty—a talented, terrible, unwearied, relentless foe. His style was clear, vigorous, and lively, his power of invective inexhaustible, his sarcasm bitter and pointed. Among the most famous of his pamphlets are the letters upon the civil list, the first of which appeared in December 1831, and which were afterwards collected into a volume under the title of *Trois Philippiques*. Never were figures made to speak a more forcible or more persuasive language than in these celebrated letters. "The four rules of arithmetic," as has been wittily said, "were made to range themselves on the benches of the extreme left." Their success was immense. They were everywhere read. Twenty-five editions were exhausted in ten years; and, along with the multitude of pamphlets which succeeded them by the same vigorous hand, they powerfully contributed to the overthrow of the Government of Louis Philippe.

A few years afterwards, M. de Cormenin published, under his favourite pseudonym of Timon, two volumes entitled, *Etudes sur les Orateurs Parlementaires*, which, in subsequent reprints, received the more ambitious title of *Livre des Orateurs*. The

style of these volumes is elaborate and brilliant, though wanting in ease and simplicity; but they contain many striking passages, and many acute and clever remarks. They form a sort of gallery of portraits of the great orators of France during the nineteenth century. But they are rather remarkable for biting satire than for fair criticism; and it would almost seem as if the author had wished to take revenge for his own failure as a speaker, by depreciating those orators who had been more successful than himself. Royer-Collard, Manuel, General Foy, Berryer, Maugin, Dupin, Guizot, Thiers, Odillon-Barrot, Lamartine, and other great statesmen and orators, all pass in review before M. de Cormenin's critical eye, and are, for the most part, treated with the utmost severity. Besides, in the different editions, their portraits vary, so that we have two or three of the same person, which is destructive of the firmness, precision, and individuality which should characterize the highest class of literary portraiture. But this, perhaps, is inseparable from the invidious and difficult task of attempting to depict contemporary celebrities.

The political opinions of M. de Cormenin have undergone a number of changes, though he himself has repeatedly proclaimed that he has always been consistent and has always been governed by his principles. When a young man, he celebrated the praises of the first Napoleon in some mediocre verses; in 1815—after the return from Elba—he formed part of the Imperial Council of State; and when Louis XVIII. returned to Paris in triumph after the battle of Waterloo, he still found means to retain his place in the same high court. During the restoration he was a legitimist; during the reign of the citizen King a democrat; and afterwards legitimist and ultramontane. He was a member of the commission on the constitution after the fall of Louis Philippe, and endeavoured to impress upon it a strongly democratic character. The office of President of the Provisional Council of State was also held by him until its reconstruction in 1849; and, after the *coup d'état*, he became a member of the Imperial Council of State. In fact he has

adhered to that court, in which his early fame was won, with singular tenacity through every vicissitude of Government, and every change of dynasty. He has kept his first love, and has at least been true to the Council of State. In 1845, however, he espoused the cause of Cardinal de Bonald, who had attacked the Concordat and the liberties of the Gallican Church, in a charge which had incurred the censure of the Council of State. On this occasion, he published a pamphlet which produced an immense excitement. It was entitled *Oui et Non*, and was severely criticised by most of the journals, who did not approve of, nor understand, M. de Cormenin's sudden conversion to ultramontanism. To their criticisms he replied by a second and still more extreme and violent pamphlet, entitled *Feu! Feu!* "Let these pretended democrats who insult me," exclaimed the indignant pamphleteer, "know that I am too proud to bow to their caprices, and too courageous not to tell them the truth." A perfect hailstorm of pamphlets appeared in answer to M. de Cormenin's defence of himself,—such as *Feu contre Feu, Eau sur Feu*, etc.,—and the author was loudly denounced as a wolf in sheep's clothing, who had all along been at heart a traitor to the democratic opinions which he pretended to maintain. But the praises and thanks of the ultramontane clergy, whom he had so vigorously defended, soothed the wounded vanity of M. de Cormenin; and, in spite of the independence of which he has always made a boast, he went over, bag and baggage, to the camp of Rome, to which he has since remained firmly attached.

Alexis de Tocqueville, perhaps the most eminent political writer of the nineteenth century, belonged to the Bar of Paris, and for some years held the office of *Juge-auditeur* at Versailles. He was somewhat deficient in the readiness of resource, facility, and tact necessary for a successful advocate; but, on the other hand, he possessed an analytical sagacity, a power of generalization, a depth of thought, and an accuracy of view which fitted him for higher duties, and enabled him to become, in early manhood, the author of a work, which, though dealing

with the weightiest and most important political problems, attained a popularity equal to that of the most successful romance, which has already gone through more than a dozen editions in France, and has been translated into the language of every civilized country.

Its author was born in Paris in 1805, and belonged to an ancient and honourable family, who had been established for several centuries in Normandy, near the village of Tocqueville, of which they were the lords, and from which they derived their name. He was the third son of the Count de Tocqueville, who was Peer of France, and Prefect under the Government of the Restoration, and a personal favourite with Charles X. Literary ability seems to have been hereditary with Tocqueville, for his father, the Count, was the author of a work entitled *Histoire Philosophique du Règne de Louis* XV., the narrative of which is animated and interesting, and also of another history under the name of *Coup d'œil sur le Règne de Louis* XVI. Through his mother, M. de Tocqueville was descended from Malesherbes, the eloquent and courageous defender of Louis XVI., and he was also connected with Châteaubriand, who makes mention, in one of his works, of the Château of Verneuil and the young Tocqueville. The future author of *Democracy in America* received his early education at the College of Metz. He then studied in the law schools of Paris, and, on the conclusion of his student's career, went to travel, along with one of his brothers, in Italy and Sicily. He wrote a long account of this tour, part of which has been published since his death. He was recalled to France by his appointment as *Juge-auditeur* at Versailles; and it was while engaged in discharging the duties of that office that he became acquainted with M. Gustave de Beaumont, then a young barrister, afterwards his companion on his mission to the United States, and his attached friend through life. The appointment of *Juge-auditeur* was conferred upon him shortly before the Revolution of 1830, but he had no hesitation in swearing fidelity to the new Government, which he regarded with approbation, though not with en-

thusiasm. He had already formed a strong opinion that democracy is the form of government which must, sooner or later, rule European society, and he was anxious to have an opportunity of studying it in its highest development, and on its largest scale, in the great Republic of the New World, in order to be enabled to judge of its advantages as well as of its dangers and drawbacks. Accordingly, he succeeded in procuring an appointment from M. de Montalivet, then Minister of the Interior, authorizing him and his friend, M. de Beaumont, to proceed to the United States in order to examine and report on their prison system. They remained a year in the States, collected six volumes of documents relating to the subject of their mission, and, on their return, published, jointly, a work entitled *Du Système Pénitentiaire aux Etats Unis.*

Shortly after the return of the friends from America, M. de Beaumont was dismissed from the office which he held for refusing to plead in the case of the Baron de Fouchères, upon which M. de Tocqueville resigned his appointment at Versailles, determining, as he expressed himself, "to quit a career in which good services and integrity are no guarantee against unmerited disgrace." He was at the time deeply engaged upon his great work on *Democracy in America*, in which he not only gives a full account of the Republic of the United States, but also of the nature and tendencies of the democratic principle generally—a principle which he had thoroughly examined, probed to the bottom, anatomized as it were. "I acknowledge," he wrote at a later period, "that in America I have seen more than America; I have there sought the very image of democracy, of its tendencies, its character, its prejudices, its passions. I have striven thoroughly to understand it there, if only to know what we have to hope or to fear from it." The first volume of his *Democracy in America* appeared in 1835, when the author was scarcely thirty years of age, forming an almost solitary example of early maturity of genius, in a department of literature to which long experience of men and of public affairs is in general an indispensable

condition of success. Its popularity was rapid and immense, not only among those best fitted to judge, but also among the general public. The importance of its subject, its elegant style, its logical connexion, its severe impartiality, its nobility of sentiment, almost immediately placed it among the masterpieces of literature. Royer-Collard declared that, "since Montesquieu, nothing like it had appeared;" and its author, previously but little known, found himself all at once in a prominent position among the great writers and thinkers of Europe. The first volume was devoted to an examination of the effect produced by the equality of conditions in America, upon institutions, laws, parties, the conduct of Government, and the whole political framework. The second part, completing the work, did not appear until 1840. In it the author inquires into the effects of equality upon the intellectual, moral, and social condition, upon the ideas, feelings, manners, and tastes, characteristic of the Americans specially, and of democratic nations in general. To discover the laws best adapted to regulate democratic governments, is one of the principal tasks to which the author addresses himself. He points out that the politics of modern Christian nations are influenced by two leading ideas, two principal forces,—the spirit of equality and the spirit of liberty,—often confounded or imperfectly distinguished from each other, though acting very differently, and sometimes in opposite directions; that the spirit of equality has hitherto been the more powerful of the two, and has a much more extended sphere of action, but that, notwithstanding, the spirit of liberty, still more essential to the moral life of nations, is the only barrier which can preserve humanity from the dangers by which it is threatened by the torrent of democracy. Briefly stated, then, one of the chief problems which M. de Tocqueville endeavours to solve is to reconcile and to balance these two forces, and to make them both concur in the onward and steady progress of humanity.

But although M. de Tocqueville distinctly and strongly points out the dangers arising from the exaggeration of the spirit of equality, he was, at the same time, decidedly opposed to any

attempt to restore the privileged classes in France. "I am convinced," he says, "that all those who, in the period upon which we are entering, shall attempt to found liberty upon privilege and aristocracy will fail; all those who shall endeavour to absorb and retain authority in the bosom of a single class will fail. There does not exist in our days a sovereign sufficiently skilful and strong to establish despotism, by restoring the permanent distinctions between his subjects; neither is there any lawgiver wise enough and powerful enough to maintain free institutions, without taking equality for his first principle and symbol. All, then, of our contemporaries who wish to create or insure the independence and dignity of their race must show themselves friends of equality, and the only worthy means of showing themselves such is to be so: the success of their sacred undertaking depends upon it. Thus the question does not relate to the reconstruction of an aristocratic society, but to make liberty emerge from the bosom of the democratic society in which it has pleased God to place us."

The publication of the first volume of his great work procured for M. de Tocqueville admission into the Academy of Moral and Physical Sciences, and a special prize of 8000 francs from the French Academy; and, shortly after the appearance of the second part, he succeeded the Comte de Cessac as a member of the latter distinguished body. In 1839, he was elected a member of the Chamber of Deputies, and entered upon active political life. He was attached to no party and pledged to no engagement, but rather inclined upon the whole to side with the opposition. He approved of electoral and parliamentary reform, but only by legal and constitutional means, and entirely disapproved of associations for the purpose of agitating and disturbing the country in order to promote it. Eloquence as a speaker he did not possess, being deficient in spirit and warmth, and too much given to deal in generalities. But he was conspicuous for his business talents, and for the able reports which he drew up on a variety of subjects. With his usual clearness of vision,

he foresaw and predicted the Revolution of 1848 and its probable consequences, discerning its germs in the debasement of public morals and in the quarrels and selfishness of the men in power. The following passage, from a speech delivered about a month before the revolution, affords a striking proof of this :—" Do you not feel, gentlemen, by a sort of instinctive intuition, which does not perhaps admit of discussion or analysis, but which is certain, that the ground again trembles beneath our feet in Europe? Do you not perceive . . . what shall I call it? A wind of revolution in the atmosphere? Whence that wind arises, whither it goes, what it may produce, we know not. And it is at such a time that you remain tranquil in presence of the degradation of public morality,—for the term is not too strong! . . . I speak here without bitterness; I address you, I even believe, without the spirit of party; I attack men against whom I feel no indignation; but, finally, I am compelled to declare to my antagonists and to my country what is my profound and decided conviction. Well then! my profound and decided conviction is that public morality is in a state of degradation, which will shortly, perhaps almost immediately, hurry us into new revolutions. . . . Is it the case that you have to-day security for the morrow? Is it the case that you know what will happen in France a year, a month, perhaps even a day hence? You cannot tell. But what you do know is that the tempest is on the horizon, that it advances towards you. Will you allow it to overtake you? Gentlemen, I implore you not to do so; I do not merely ask you, I implore you; I would willingly throw myself on my knees before you, so serious and real do I believe the danger to be, so much do I feel that to point it out is no mere vain artifice of rhetoric. Yes, the danger is great, avert it while there is yet time."

M. de Tocqueville's advice was not listened to. The tempest which he foresaw lowering on the political horizon drew nearer and nearer, and at last burst upon France, shattering the purest and best Government she has ever enjoyed. But it was no time for the friends of France to

stand aloof, and M. de Tocqueville unhesitatingly placed his services at the disposal of the Provisional Government. He was elected a member of the Constituent Assembly and of the Commission on the Constitution. His experience led him to be very doubtful of the success or stability of a Republican Government in France; but as it then seemed to be the sincere wish of the majority of the nation, he applied himself zealously to contribute to its establishment. But his counsels were not followed. A radically vicious organization, creating an antagonism between the legislative and executive powers, was given to the new *régime*. The follies of certain demagogues disgusted the country with republicanism; and soon all was ripe for a counter-revolution.

After the election of Prince Louis Napoleon as President of the Republic, M. de Tocqueville—who was bound by no party ties and looked only to the interests of his country—consented to form one of the Cabinet as Minister for Foreign Affairs; and, while in that capacity, he despatched a mission to the Conferences at Gaeta, charged to establish in Italy the just influence which France ought to possess, to secure to the Pope the independence necessary for governing Roman Catholic nations, and to obtain for the Papal States real reforms and liberal institutions. The new Ministry did not long remain in power, as disputes arose between them and the Prince-President, which resulted in the dissolution of the Cabinet not many months after its formation. From this time, M. de Tocqueville retired into private life, and devoted himself to his favourite political studies, the result of which was given to the world in the shape of a work entitled, *L'ancien Régime et la Révolution*. It was highly successful, and was characterized by the same careful research, elegance of style, and profoundness of thought which had made his great work on America so justly popular. He was engaged in the composition of the second part of this book when attacked by the lung disease which compelled him to retire to Cannes, where he died in April 1857. He was buried, according to his own request, in the humble cemetery of the village of Tocqueville. M. de Tocque-

ville was married to an English lady, with whom he lived happily for more than twenty years. She survives him, and has edited a complete edition of his works. The private character of the author of *Democracy in America* was amiable and attractive, and he was surrounded by a circle of deeply attached friends, such as MM. Ampère, Gustave de Beaumont, Louis de Kergolay, and many others, while his active benevolence made him almost adored on his own estate and in the district around it.

Two other eminent advocates—MM. Gaudry and Pinard—deserve notice in this chapter for the ability and learning they have displayed in writing on a great variety of legal subjects, and especially in elucidating and illustrating the history of the French Bar. M. Joachim-Antoine-Joseph Gaudry is a lineal descendant of the famous advocate Gairal, who, for more than forty years, in the end of the eighteenth and beginning of the nineteenth century, enjoyed one of the largest practices at the Parisian Bar, and who preferred the career of advocate to the highest judicial offices, frequently repeating, "*J'ai vécu avocat et je mourrai avocat.*" M. Gaudry was born at Sommevoire, in the Department of the Haute Marne, towards the close of the eighteenth century. He studied law in Paris, and joined the Parisian Bar, where he succeeded in acquiring a large practice, and where he is much esteemed and respected for the variety and extent of his legal acquirements. In 1850 and 1851 he was elected *bâtonnier*, and, in the former year, received the Cross of the Legion of Honour. He is a profound jurist, and has written extensively on the science and history of law. His work, entitled, *Traité de la législation des cultes et spécialement du culte catholique, ou de l'origine, du développement et de l'état actuel du droit ecclésiastique en France*, is admitted to be the leading authority in that extensive and important field of inquiry. His most recent production is that to which we have been so largely indebted in the course of the present sketch. It was published in Paris in 1864, and is entitled *Histoire du Barreau de Paris depuis son origine jusqu'à* 1830.

M. Oscar-Marie Pinard was born in 1801, studied law in Paris, and joined the Parisian Bar, where he acquired considerable reputation, and became a member of the council of discipline. In 1848, he was Advocate-General and *Procureur-Général* to the Republic, in the following year Councillor of the Court of Appeal, and afterwards Councillor in the Imperial Court of Paris. He has published three volumes on the history of the Bar, distinguished by much grace and vivacity of style, and a strong feeling for the honour and dignity of the order to which he belongs. Of these, the first appeared at Paris in 1848, under the title of *L'Histoire à l'Audience* 1840-8, and the other two in 1864-5, under the title of *Le Barreau au* 19^{e} *siècle.*

CHAPTER XVI.

The Bar of the Nineteenth Century continued—The men of the day: MM. Baroche, Billault, Rouher, Jules Favre, Emile Ollivier, etc.

PIERRE-JULES-BAROCHE, at present one of the chief ministers under the Second Empire, was born at Paris in 1802. He joined the Parisian Bar about 1827, and, after a successful forensic career, was elected *bâtonnier* in 1846 and 1847. Among the cases in which he especially distinguished himself were those of Colombier and of General Despans-Cubières. In 1847 he was elected deputy for the department of Charente; and since that time he has occupied a prominent place among the leading public men of France. Although now so ardent and thorough-going an imperialist, he was formerly an equally ardent republican; for, in the elections which followed the Revolution of 1848, he wrote as follows to the electors of Charente Inférieure:—"I am a republican by reason, by feeling, by conviction. It is not as a *pis-aller*, or as a provisional arrangement, that I accept the republic; but as the only form of Government which can assure the greatness and prosperity of France." Perhaps, however, considering the unsettled and fluctuating state of political opinion in France, and the number of governments and constitutions she has had during the present century, it would be unfair to expect unshaken consistency in the conduct of her public men. There have been brilliant exceptions—for example, MM. Royer-Collard and Berryer—but change seems to be the rule. Every shade of republicanism, every form of kingly government, from a strictly limited monarchy to an uncontrolled despotism, has been tried, and no permanent rest or satisfaction has been found in any. The fashion of political opinion changes as often and as easily as the

fashion of dress, and public men assume a new set of political ideas almost as readily as a different cut of coat or a novel shape of hat. Besides, all history tells us that democracy has a tendency to end in despotism; and the transformation of a keen republican into as keen an imperialist, especially when personal considerations are all on the side of imperialism, is, after all, not so very extraordinary.

M. Baroche was a member of the Legislative Assembly in 1849; and, in 1850, he was appointed Minister of the Interior, which he subsequently gave up for the portfolio of Foreign Affairs. Soon after the *coup d'état*, he was placed at the head of the re-organized Council of State, first as Vice-President, and afterwards as President. He is a Grand Cross of the Legion of Honour; and, on the death of M. Billault, he succeeded to his post of defender of the imperial policy in the Chamber. M. Baroche has been a fortunate and successful man. He early displayed great information, tact, and facility, joined to perfect self-possession without any mixture of presumption. He has always shown a strong liking for political life and singular aptitude for business. He has been tried in the magistracy, in diplomacy, in finance, and has proved himself thoroughly competent to the discharge of the duties of all these various departments. He is always ready, always prepared. In the difficult position of President of the Council of State, he has exhibited rare tact and ability. His power of work, his knowledge of details, his rapid comprehension, are admirable. He is too ready, however, to forward the designs of despotism, and to stretch the extensive powers he possesses as Minister of Justice to an excessive and intolerable degree. Of this the most recent and notorious proof is furnished by the case of Baron Séguier, *Procureur-Général* at Toulouse, who preferred to resign his office rather than submit to have the speeches he was to pronounce as Counsel for the Crown dictated to him by the Minister of Justice, and rather than stoop to the degradation of having his conduct in Court watched, and his words reported by agents of the secret police, employed by the same high functionary. It is melan-

choly to see a member of the Bar, and a man of the conspicuous abilities of M. Baroche, exerting his influence to destroy that spirit of freedom and independence, without which the office of advocate loses its dignity and usefulness, and courts of justice become a solemn mockery.

Auguste-Adolphe-Marie Billault—so well known as a brilliant and successful defender of the imperial policy—was born at Vannes in 1805, and joined the Bar of Nantes at the early age of twenty. In 1834, he had risen to be *bâtonnier* of the provincial Bar, Municipal Councillor, and Member of the Council General of Loire Inférieure. He was elected a deputy in 1837, by three of the electoral colleges of that Department, and selected that of Ancenis, which he represented until 1848. Previously to his election, he had not only acquired the highest position at the Bar of Nantes, but had also evinced considerable ability as a political writer by the composition of several pamphlets on the organization of the communes, on the means of transport, and other subjects. As a speaker, he displayed great energy, readiness, and fluency, and possessed remarkable aptitude for mastering the details of business. In 1828 he was member of, and secretary to, the Grand Commission on Railways, and subsequently Under-Secretary of State for Agriculture and Commerce. Up to the Revolution of 1848 he had been a moderate republican, but his opinions, after that date, like those of Baroche, underwent a complete change. He became acquainted with the Prince-President, who formed a high estimate of his abilities, and is said to have frequently consulted him. His political opinions seem to have possessed singular mobility, and to have suited themselves very much to his personal interests; for, under all the three *régimes* of monarchy, republic, and empire, he succeeded in obtaining a fair share of preferment. He was chosen First President of the new Legislative Assembly after the *coup d'état*. In the summer of 1854, he succeeded M. de Persigny as Minister of the Interior, and was raised to the Senate at the close of the same year. As official defender of the imperial policy he proved himself a bold, ready, fluent, and powerful

speaker, always prepared to meet every antagonist, and skilled in the art of making the best of a bad cause. He died of heart disease in 1863, worn out by fatigue, and chagrined at the result of the elections of that year, which had returned a number of opponents to the imperial policy.

The last, though certainly not the least, of the defenders of the imperial policy belonging to the Bar of France is Eugène Rouher, whose recent appearances on the Mexican expedition, the project for the re-organization of the army, the laws on the press, and several other important questions, have amply proved his readiness, ability, and eloquence. He was born in 1813, was originally destined for the navy, and studied for some time in the naval school of Angoulême; but he afterwards applied himself to the law, and joined the Bar of Rouen in 1836, where he occupied a high position at the time of the breaking out of the Revolution of 1848. He was chosen a member of the Constituent, and afterwards of the Legislative Assembly; and upon the resignation of the first Ministry of Louis Napoleon, which was presided over by Odillon-Barrot, he succeeded to that great advocate and statesman as Minister of Justice. He left the Ministry in 1851, but returned to it in the course of the same year along with MM. Baroche and Fould; and at the close of the year, was again in possession of the Portfolio of Justice. But he resigned his post on the promulgation of the decree confiscating the property of the Orleans family; accepting, however, soon afterwards, the Vice-Presidency of the Council of State, and the direction of the departments of Legislation, Justice, and Foreign Affairs. In 1855, he became Minister of Agriculture and of Public Works, and it is under his direction that these magnificent improvements have been carried out in Paris that have made it the most attractive and splendid city in the world. He was created a Senator in 1850, and made a Grand Cross of the Legion of Honour. In the preparation of the treaty of commerce between France and England, which was concluded in 1860, and has since proved so beneficial to the commercial prosperity of both nations, M. Rouher took a leading part;

and on the death of M. Billault, he succeeded to his arduous and responsible task of defending the imperial policy in the Legislative body. He is at present Minister of State and President of the Council of Ministers. The political opinions of M. Rouher are characterized by that looseness and mutability that appear to be the rule in modern France. They have undergone a great change within the last few years; and one scarcely recognises in the minister and official champion of imperialism, the same M. Rouher, who during the short-lived Republic of 1848, demanded the "most unrestricted liberty of public meeting, the right to establish clubs, graduated taxation, organized labour: in a word, all for the people and by the people."

Pierre Magne, Minister of Finance, is another distinguished supporter of the Imperial Government, belonging to the French Bar. He was born at Périgueux in 1806, and entered upon life as a copying clerk in the office of the prefecture of the Dordogne. In this position he contrived to save enough to enable him to study law and join the Bar, where he made himself conspicuous by his unwearied application, sound judgment, and clear and vigorous style of speaking. He received from M. Romieu, Prefect of the Dordogne, the appointment of Councillor to the Prefecture; and, in 1843, was elected deputy for his native place, and joined the ranks of the conservative party in the Chamber. Two years afterwards, he drew up a very able and exhaustive report on the Algerian budget, and was appointed Under-Secretary of War; but on the breaking out of the revolution of February he resigned his office, and resumed practice at the Bar.

He was recalled to the public service by the Prince-President, who, in 1849, made him Under-Secretary of State for the Finance Department, and, in 1851, Minister of Public Works. On the occasion of the law confiscating the property of the Orleans family, he retired from office for a time, but soon afterwards he again joined the Administration with the charge of the departments of Public Works, Agriculture, and Commerce. In the end of 1852, he was raised to the dignity

of Senator. About two years later he was called to the Ministry of Finance, on which occasion the Emperor wrote him the following flattering letter:—"The services which you have rendered to the State during the two years in which you have been Minister of Agriculture, Commerce, and Public Works are so evident, that I have determined to confide to you the Portfolio of Finance, the health of M. Berieau not permitting him to remain in the public service. I have thought that the firmness, the high intelligence, the impartiality which you have displayed, were the qualities most essential for the person at the head of the finances. I pray you therefore to accept this new charge as a proof of my high consideration." A few months afterwards M. Magne was created Grand Cross of the Legion of Honour. As Minister of Public Works he has originated and carried out a number of important improvements, and he has displayed eminent abilities in his financial administration, in the course of which he has had to face several monetary and commercial crises, and to provide for heavy war expenses.

The last eminent barrister we shall mention among those enlisted in the imperial service is Adolphe de Forçade Laroquette, who was born at Paris, in 1820, and joined the Parisian Bar in 1841. In 1857, he was Master of Requests, and, in 1859, Director-General of Customs. He held for about a year the post of Finance Minister in 1860 and 1861; and was last year appointed Minister of Agriculture, Commerce, and Public Works, which office he still continues to hold.

We now pass from the defenders of the imperial policy in the Corps Législatif to its opponents; and we shall find that the same great body which has produced the ablest champions of the existing Government, also furnishes its cleverest assailants. On the one side Baroche, Billault, Rouher; on the other, Thiers, Jules Favre, Émile Ollivier, and many others that might easily be named, sufficiently prove how much of the energy, talent, wisdom, and nobility of sentiment in the country is still concentrated in the French Bar. To the two last-named advocates we now direct the attention of our readers.

M. Jules-Gabriel-Claude Favre, at present the acknowledged leader of the democratic party in France, and one of the most consummate of living orators, was born at Lyons, in the spring of 1809. His family were engaged in mercantile pursuits; but as the young Jules showed great abilities and aptitude for study, it was determined that he should give up commercial life, and go to Paris to study law, with the view of joining the Bar. He became imbued with republican opinions during his stay in the capital, and took an active part in the Revolution of 1830. Shortly afterwards, he was admitted to the Bar of his native city, and became an assiduous contributor to certain journals maintaining advanced liberal opinions. Even at this early period of his life he was remarkable for the fearlessness and independence of character, the caustic talent, the polished elegance of language, the facility and correctness of improvisation, which at present distinguish him, and render him the most formidable member of the opposition. His eloquence was signalized in 1835, before the Court of Peers, in the defence of those implicated in the fatal disturbances which took place at Lyons in the spring of that year. After having described the nature of the *émeute*, and having sought to disprove the accusation of conspiracy, he proceeded to attack the Government in the following eloquent and forcible terms:—"You accuse us of a violent attack on the Government, and I accuse the Government of not having baffled that attack—of having fomented the disturbance which it would have been so easy to repress. You accuse us of having constructed barricades; I accuse you of having suffered them to be raised under the very eyes of the agents of police and of the civil authority, and of having sent hired agitators to mingle with the inoffensive crowd. You accuse us of having employed force against the defenders of order; I accuse you of having violated the law, which protects the citizens; of having given orders of themselves sufficient to excite an insurrection; of having endangered the lives of women, children, and old men; of having unneces-

sarily prolonged the struggle; of having buried under the ruins of their houses families who did not assail you; of having been deaf to the proposals of truce and reconciliation which were made to you, and of not having spared the lives of the vanquished. You have delivered your address, behold mine! They will both remain attached to the gates of this palace, and we shall see which will last longest—which France will read with most indignation!"

On the retirement of the famous Abbé Lamennais from the management of the journal entitled *Le Mouvement*, M. Favre became one of its principal political directors; but in spite of his powerful assistance the paper was unsuccessful. He was a better barrister than journalist, and his high forensic abilities soon procured him a host of clients. He defended a number of journals and individuals accused of political offences against the Government; and, by his radical opinions and great talents, he succeeded in securing for himself the friendship of Ledru-Rollin, who, when he came into office as Minister of the Interior on the fall of Louis Philippe, appointed Jules Favre his secretary-general; and it was he who, while occupying that position, drew up the famous circular which is such a stain on the administration of Ledru-Rollin. That circular was addressed to the Commissioners of the Provisional Government in the various departments, exhorting them to act vigorously in support of the new order of things, and to avail themselves to the full of the extensive powers conferred upon them. "Your powers," said the circular, "are unlimited."

When M. Favre became a member of the Constituent Assembly, he soon proved himself a powerful and sarcastic speaker, opposing the policy of the Prince-President, and especially attacking the expedition to Rome. He at first failed in obtaining a seat in the Legislative Assembly, but afterwards succeeded, and renewed his assaults on the foreign policy of the Government, the law of deportation, and the laws against the press. After the *coup d'état*, he declined

taking the oath required from the representatives of the people, and returned to the Bar, where he remained devoted to his profession, and a stranger to political life, for six years. But in 1858 he seems to have overcome his scruples, as he then re-entered the Chamber, of which he has ever since been one of the chief ornaments. In 1860 and 1861 he was elected to the honourable position of *bâtonnier* of the Parisian Bar.

M. Jules Favre is too strongly marked, and too important a personage, not to have incurred the bitter resentment, and experienced the virulent attacks, of writers belonging to the ultra-royalist and ultramontane parties. His democratic views are distasteful to the former, and the breadth and tolerance of his religious opinions are hateful to the latter, while both have repeatedly smarted under the vigour of his logic and the sting of his sarcasm. Accordingly, we find his conduct misrepresented, and his person caricatured, by several of these writers, especially by one who has repeatedly incurred severe punishment for the unbridled license of his abuse, but who wields a facile and trenchant pen, and is a proficient in exaggerating the failings, and explaining away the virtues, of his political opponents. We give his portrait of M. Jules Favre as a specimen :—"He is a swarthy, yellow, bilious individual, who wears spectacles upon a nose so crushed in, that we ask how they can remain there. His face in repose has nothing absolutely repulsive, and is not devoid, we must say, of a certain stamp of amiability and benevolence. . . . But whenever a secret spite animates Jules Favre, his face assumes an olive tint. He is ugly to an extent which makes those who look at him shudder. He is of the true Jacobin type. To these shapeless features add a careless dress and uncombed hair, and you will have an almost accurate photograph of the citizen. That modern demagogue produces in the Tribune the effect of the torpedo,—that is to say, he benumbs his audience. When he has succeeded in saying a biting thing, we see his pale face light up with an indescribable tawny and wavering brilliancy. He seems to be in his element; he wounds, he cuts, he is happy. Jules Favre has

the qualities which best serve the partisans of anarchy: he watches and he waits."

But whatever may be the differences of opinion with regard to the political and religious views and conduct of M. Jules Favre, there is none with regard to the exquisite finish and perfection of his speaking. There is in it a delicacy, a precision, and, at the same time, a vigour which is scarcely to found in the most elaborate writing. He has received from nature an admirable oratorical talent, which he has improved and perfected by the most careful study. "Do we talk of the art of speaking," says an eminent French writer and advocate, "there is one man whom we must name, and beside whom no other can be placed. I do not believe that at any period the Bar has afforded a similar model of skill in language carried to the point to which it has been carried in the mouth of M. Jules Favre; all the refinements, the delicacies, the audacities of style are there animated by the impulse of the discourse. It is a new manner. One no longer recognises in it the style of the Bar. That style is characterized by a facility, a suppleness, a factitious brilliancy which are found among the best advocates; qualities which possess, indeed, a certain value, and, like a kind of music, lend effect to speech, which are sufficient for the ends of justice, which have even been found sufficient for eloquence, but of which M. Favre has, nevertheless, disdained both the dangers and advantages. He has sought for something better, and he has found it; he has determined to have in his oratory the delicacy, the precision, the finish, the skill which the most experienced pen could scarcely produce, and he has succeeded; he has believed that it was possible to express everything by means of art, and he has been able to do so."

His oratory has a peculiar character; it at once agitates and charms. He loves danger and difficulty; and his eloquence is never more conspicuous and successful than when called forth by critical and perilous circumstances. He writes and speaks extempore with equal ease and finish. He is a truly great artist in the difficult science of speech, and the

closest inspection of his eloquence only serves to reveal fresh beauties. The following extract from an address delivered by him, as *bâtonnier*, at the opening of the conferences of the order of advocates in December 1860, may give a faint conception of the beauty of his ideas and the felicity of his expressions:—"And I, my dear brethren, if I may venture to speak after these great geniuses, I would add that the orator ought not to rest satisfied with instructing, persuading, charming his auditory; the admiration whose irrepressible manifestations intoxicate him should not be his chief reward; it is to realize the ideal type of the true and the good, the germ of which is implanted in his bosom, that he should bend every energy of his being; noble and valiant labour, which raises the finite creature to the very limits of the infinite regions where his nature becomes transformed; mighty and fruitful méditations through which, pursuing with unwearied ardour the vision which she beholds in spite of her weakness, thought expands and kindles, and overwhelms the soul with almost celestial joys, ineffable pleasures, of which no human tongue can depict the power and the sweetness, for they are the highest expression of the power of our immaterial essence. Poetry has given a symbol of them in immortalizing the sublime delirium of the artist who felt the heart of the woman palpitate beneath the marble which had grown under his chisel, and prostrated himself overwhelmed with love before that ineffable work, for the production of which his hand had been united with the hand of God! And think not, my dear brethren, that it is a rash requirement on my part to urge you to these aspirations; they are the source of all that is truly great. It is by the heart that men are governed, and it is the beautiful that penetrates and captivates it. Hence, why should he whose mission it is to persuade, disdain the attractions of thought? Why should he renounce the decisive assistance which he gains from purity of language, grace of manner, nobility of expression, vivacity of description, splendour of imagery, and the ingenious comparison of ideas? These, it is said, relate only to form, and our

positive age is not content with that; it demands above all practical and precise thoughts which can be expressed without fine words. My dear brethren, believe me, these ideas too often repeated are but a sophism for the use of the incapable. I am far from disregarding the tendency of many minds to shorten everything; mediocrities find their account in this diminution. Certain state-mongers make it the foundation of their fortunes. I perceive also its melancholy traces in literature and in the arts, and it is therefore that I conjure you to strive courageously against this progressive lessening of ourselves. As much as it is necessary to shun bombast and bad taste, so much it is also necessary to adhere with a pious respect to our old traditions of elegance and distinction, which form one of the most precious patrimonies of our nationality. That beautiful French language, the language of Descartes, of Bossuet, of Pascal, of Racine, of Molière, of Voltaire, is so admirable an instrument, that those who are called to the signal honour of making use of it in the discharge of public duty—and what a duty! the free defence of the right!—would be in the highest degree culpable if they permitted it to be degraded and perverted in their hands."

The youngest, though one of the ablest of the many eminent advocates who take a leading part in the debates of the Legislative body, is M. Emile Ollivier, born at Marseilles, in 1826, and admitted to the Parisian Bar in 1846. In 1848, he received the appointment of Commissary-General to the Republic in the Bouches-du-Rhone and in the Var; and was shortly afterwards made prefect in the first of these departments, and subsequently prefect of the Haute-Marne, where he remained until the beginning of 1849, when he returned to the Bar, and soon succeeded in obtaining employment in a number of important cases, in which his eloquence, boldness, and independence of spirit were conspicuously displayed. Among these, we may mention his pleading for Mademoiselle de Guevry against the corporation of Picpus; for the students accused of having excited a disturbance during M. Nisard's course of lectures; and for the homœopathic practitioners. His refusal to plead

before the Council of War at Lyons in 1857 drew upon him a suspension of six months; and, in December 1859, the freedom of speech displayed in his defence of M. Vacherot before the Correctional Tribunal of the Seine, was visited with the penalty of three months' interdiction, the sentence bearing that he had failed in the respect due to justice. But this sentence was a gross infraction of the liberty of defence, which the French Bar has always so firmly and courageously maintained, and which the public prosecutor and his subordinate officials, under the present absolute Government, are ever striving to curtail or destroy. The Bar, accordingly, warmly, but unsuccessfully, espoused the cause of M. Ollivier as the cause of the whole order. An exception of incompetence proposed before the Imperial Court of 1860 was disallowed, and the appeal to the Court of Cassation following thereon was also rejected.

In 1857, M. Ollivier was elected a deputy, and since then he has raised himself by eloquence, energy, and knowledge of business to a high position in the Chamber. He is a sound and excellent lawyer, and was one of the principal founders of *La Revue Pratique de Droit Français*, to which he has contributed many valuable articles. He is also a vigorous and brilliant journalist. In politics he is a liberal; but his views are much more moderate than those of M. Jules Favre, and not so diametrically opposed to the Imperial Government. He is a politician somewhat of the stamp of Alexis de Tocqueville—an ardent friend of liberty, an opponent of privilege, but, at the same time, fully awake to the dangers which beset a democratic government, and to the necessity of providing sufficient checks and safeguards against them.

He has recently published—under the title of *Démocratié et Liberté*—a pretty thick volume, addressed to his constituents, containing his principal speeches and articles in journals since 1861. Many of these are able and interesting, and show that in all the discussions on the chief questions of the day, whether relating to law, to foreign and domestic policy, to finance, or to commerce, M. Ollivier has spoken, and spoken for the most part wisely and well. One or two extracts will afford an idea

of his views on some important points. The following is the conclusion of a speech delivered in answer to M. Rouher in March 1866 :—"The country is calm on the surface; but at the bottom a mysterious anxiety, arising from the radical disagreement which exists among political men, occupies every mind. Some say that the present Government, on account of its origin, its traditions, and its nature, cannot give liberty; that even if it wished it, it could not do so. Others reply, that precisely on account of its origin, and of the force which maintains it, it can give liberty more safely than any other; that it is able, but unwilling, to grant it. The future of the imperial dynasty depends upon the solution which shall be given to this controversy. If those triumph, who believe that the Emperor can give liberty, the dynasty will be founded and throned upon a rock; if those who maintain that the Emperor cannot give liberty carry the day, the dynasty is condemned to be the sport of chance. Along with you, my dear colleagues, who have signed the amendment, I desire that the dynasty should become firm; but along with you I believe that that is impossible without liberty. Like you, I am determined to combat energetically all those who shall withstand us, as obstacles to the advent of liberty."

We select the next specimen of M. Ollivier's opinions and style from a speech delivered in March 1865, on the affairs of Germany, in answer to M. Jules Favre. After insisting on the desirableness of a cordial union between France and Germany, and on the necessity, in order to such a union, that Germany should be thoroughly convinced that France desires no territorial aggrandizement at her expense; and, on the other hand, that Germany should not allow herself to be carried away by her longing for a factitious unity, the establishment of which would be a menace to France; the orator thus proceeds :—"After having endeavoured to reduce to the simplest terms a question which it would be easy to extend and to complicate, I desire to say a last word in reply to the speech of the honourable M. Jules Favre. He has maintained that a great country like France cannot be a disinterested spectator

of the struggles that are waged around her; that she ought to watch over them all, and take a part in them, when the rights of justice demand it. My principle is diametrically opposite: I believe that if France ought to watch over what passes around her, she ought to mingle as little as possible with foreign quarrels. And I consider that the true principle of foreign policy is the policy of non-intervention, precisely because it is the pacific principle. I cannot sufficiently express my astonishment, gentlemen, that they have just demanded what they term a policy of expansion as regards foreign affairs, and what they term a policy of liberty in the home department. The two things are utterly incompatible. The foreign policy of expansion, as a consequence and a necessity, entails an internal policy of compression. When it is wished to act beyond our own limits; when it is wished to meddle with the affairs of other nations, we must be prepared for everything, we must have an army on the war footing. Foreign war necessitates at home a certain concentration of power. This was well understood by—I shall not say one of the most eminent, but certainly one of the most sagacious sovereigns who have ever directed human affairs—Cosmo de Medicis I. He wrote to Charles IX. after St. Bartholomew: —'Now that you have cleansed and purged your kingdom, employ the French, a nation volatile and fond of novelties, in a war against the Turks.' Well, gentlemen, I do not desire that France should, at every turn, be kept occupied with a war against the Turks. I do not desire that we should always be on the point of interfering in what is going on around us. When our interests are threatened, let us energetically defend them, but do not let us be constantly considering them compromised, and for this sole reason, that something is taking place somewhere that we do not approve of. The policy of non-intervention is the true policy of France, not only because it contributes more than any other to her prosperity, but also because no other ministers so much to her influence. At the commencement of the French Revolution, at the close of the reign of Louis XVI., France exercised a veritable sove-

reignty over the whole world. Her great men were the great men of every country; her influence was unrivalled! Wherefore? Because she then threatened no one; she was strong, she was respected, under the protection of these noble frontiers that Vauban had reared for her; protected on the south by the family compact, she could lend a helping hand to young America. Her ideas radiated everywhere; and when the revolution burst forth, it was not the French but the European revolution."

We shall give but one other quotation from the speeches of M. Ollivier, his eloquent defence of liberty against M. Baroche, the *ministre-orateur*:—"I affirm that the honourable M. Baroche does not believe in the power of liberty, because he sees only its excesses; these excesses I also, like him, acknowledge and detest. But for the same reason that we do not forbid the use of fire because it burns as well as warms; for the same reason that we reject not religion, because there are wicked priests, and justice, because there are false sentences; for the same reason that we condemn not marriage, because there are adulterers; for the same reason that we refuse not to commence a voyage, because we may encounter tempests on the sea instead of propitious winds and starry skies. For the same reason I do not understand why we should proscribe liberty on account of its excesses! In all worldly things the good and the bad are found side by side. We must have the manly courage when we follow the good, to accept the difficult condition of strifes and efforts which are the beauty, the glory, the dignity of great undertakings. Royer-Collard has said so, and yet he was no demagogue. Constitutions are not tents set up for sleep; governments are not places of repose, where one's days may glide away in tranquillity, without care or anxieties; they are posts of honour, because they are posts of battle and of danger!

"Besides, I ask it of you, of you who dispute our right to liberty, of you who pretend that its benefits can be denied to nations, to whom then, I demand, do you confide the administration of governments? Do you not confide it to men?

Have they been created in another manner than we have? Is it written in Genesis that God, after having created subjects, created rulers? Are they not, like us, exposed to error, to weaknesses, to mistakes, to all the causes that mislead our wills, that vitiate our judgments, that hinder us from perceiving, from following, or from boldly applying the truth? Do you, you who have the signal honour, the perilous mission of directing others, do you not find in the very elevation of your position a most dangerous source of weakness? Have you not read, have you not listened to the warnings which come from the experience of bygone ages, in the writings of all the politicians and all the moralists? Have you not learned that the more men are elevated above their fellow-men, the more they are liable to be deceived, because more than others they are surrounded by personal ambitions, by flatterers, by men interested that truth should neither be known nor welcomed? Do you not know the terrible fascination that attaches to the solitude of supreme power? Are you ignorant that there is but one remedy for such an evil, and that that remedy is liberty? Not unrestricted liberty as you have alleged, not absolute liberty, but liberty as the Emperor has defined it, real liberty, entire liberty; not English liberty, but French liberty, that of our fathers, that of '89,—liberty the source of evils, but also the inexhaustible source of greatness, prosperity, and blessings!"

These extracts are sufficient to prove that M. Ollivier is an eloquent and effective speaker, though, perhaps, somewhat too rhetorical for English tastes; and the following sentences from his circular to the electors of Var, dated May 1863, will show that his liberalism is not of that extreme cast which is fraught with so much danger to true freedom. "If they ask you," he says, "what are my principles, reply: that, since 1848, I desire liberty without disorder, but order without despotism; that, since 1857, equally removed from systematic approbation and systematic opposition, I have made use only of independence and justice, in order to win liberty."

There are many other younger and less distinguished

advocates, besides those we have already mentioned, who are members, and no insignificant members, of the Legislative body. But we have said enough to show how important is the influence which is there exercised by the French Bar. We have likewise, in the course of our historical sketch, pointed out numerous instances of the wisdom, independence, and moderation, the love of well-regulated freedom, the dislike to violence, the spirit of brotherhood, the heroic self-devotion, which have signalized the annals of that great body; and we have no reason to think that the Bar of to-day will prove unworthy of its glorious traditions.

EDINBURGH: T. CONSTABLE,
PRINTER TO THE QUEEN, AND TO THE UNIVERSITY.

00098331

Digitized with financial assistance from the
Government of Maharashtra
on 18 July, 2018